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STREICHER MOBILE FUELING INC

Form S-3

March 17, 2004

AS FILED WITH THE SECURITIES AND EXCHANGE COMMISSION ON MARCH 17, 2004
REGISTRATION NO. 333-_____

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM S-3
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

STREICHER MOBILE FUELING, INC.
(Exact Name of Registrant as Specified in its Charter)

| | | |
|-------------------------------------------------------------------|-------------------------------------------------------------|-----------------------------------------|
| FLORIDA | 5172 | 65-0707824 |
| (State or Other Jurisdiction of Incorporation or Organization) | (Primary Standard Industrial Classification Code Number) | (I.R.S. Employer Identification No.) |

800 WEST CYPRESS CREEK ROAD, SUITE 580
FORT LAUDERDALE, FLORIDA 33309
(954) 308-4200
(Address, including zip code, and telephone number,
including area code, of registrant's principal executive office)

RICHARD E. GATHRIGHT
PRESIDENT AND CHIEF EXECUTIVE OFFICER
STREICHER MOBILE FUELING, INC.
800 WEST CYPRESS CREEK ROAD, SUITE 580
FORT LAUDERDALE, FLORIDA 33309
(954) 308-4200
(Name, address, including zip code, and telephone number,
including area code, of agent for service)

Copies of Communications to:
S. LEE TERRY, JR., ESQ.
DAVIS GRAHAM & STUBBS LLP
1550 17TH STREET, SUITE 500
DENVER, COLORADO 80202
PHONE: (303) 892-7484
FAX: (305) 892-7400

APPROXIMATE DATE OF COMMENCEMENT OF PROPOSED SALE TO THE PUBLIC:
From time to time after the effective date of this Registration Statement.

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

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

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

If this Form is a post-effective amendment filed pursuant to Rule 462(c)

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under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. [] _____

If delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box. [] _____

CALCULATION OF REGISTRATION FEE

| Title of Shares to be Registered | Amount to be Registered | Proposed Maximum Aggregate Price Per Unit (1) | Proposed Maximum Aggregate Offering Price (1) | Amount of Registration Fee |
|-----------------------------------------|-------------------------|-----------------------------------------------|-----------------------------------------------|----------------------------|
| Common Stock, \$.01 par value per share | 4,177,192 shares (2) | \$ 1.82 | \$ 7,602,489.44 | \$ 963.24 |

- (1) Estimated solely for the purpose of computing the amount of the registration fee, based on the average of the high and low prices for the Registrant's common stock as reported on the Nasdaq SmallCap Market on March 11, 2004 in accordance with Rule 457(c) under the Securities Act of 1933.
- (2) The shares of common stock set forth in the Calculation of Registration Fee Table, and which will be offered pursuant to this Registration Statement, includes, pursuant to Rule 416 of the Securities Act of 1933, as amended, such additional number of shares of the Registrant's common stock that may become issuable as a result of any stock splits, stock dividends or similar events.

THE REGISTRANT HEREBY AMENDS THIS REGISTRATION STATEMENT ON SUCH DATE OR DATES AS MAY BE NECESSARY TO DELAY ITS EFFECTIVE DATE UNTIL THE REGISTRANT SHALL FILE A FURTHER AMENDMENT WHICH SPECIFICALLY STATES THAT THIS REGISTRATION STATEMENT SHALL THEREAFTER BECOME EFFECTIVE IN ACCORDANCE WITH SECTION 8(A) OF THE SECURITIES ACT OF 1933 OR UNTIL THE REGISTRATION STATEMENT SHALL BECOME EFFECTIVE ON SUCH DATE AS THE SECURITIES AND EXCHANGE COMMISSION, ACTING PURSUANT TO SAID SECTION 8(A), MAY DETERMINE.

PROSPECTUS

STREICHER MOBILE FUELING, INC.

4,177,192 SHARES
COMMON STOCK
2,090,675 WARRANTS

The prospectus relates to 4,177,192 shares and 2,090,675 warrants that may be sold from time to time by the selling shareholders named in this prospectus. The shares offered include 666,666 shares issued in a private placement of our common stock in June 2001, 1,357,136 shares issued upon the conversion of promissory notes in January 2001 and January 2002, 62,715 shares issued in lieu of cash payment of interest on promissory notes, and 2,090,675 shares underlying warrants issued in private placements of promissory notes and warrants in May and August 2003. The 82,425 three year warrants issued in May 2003 entitle the holder to purchase an equal number of our shares of common stock at an exercise price of \$0.86 per share and the 2,008,250 five year warrants issued in August 2003 entitle the holder to purchase an equal number of our shares of common stock at an exercise price of \$1.00 per share.

The offering is not being underwritten. The offering price of our common stock that may be sold by selling shareholders may be the market price for our

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common stock prevailing at the time of sale on the Nasdaq SmallCap Market, a price related to the prevailing market price, a negotiated price or such other prices as the selling shareholders determine from time to time. The warrants do not have an established trading market and will not be listed on any securities exchange. The offering price of the warrants that may be sold by the selling shareholders may be the market price, if a market develops, a negotiated price or such other prices as the selling shareholders determine from time to time.

We could receive up to \$2,079,135 if the warrants are exercised by the selling shareholders. We will not receive any of the proceeds from the sales of our common stock or the warrants by the selling shareholders.

Our common stock is quoted on the Nasdaq SmallCap Market under the symbol "FUEL." On March 16, 2004, the closing price of our common stock was \$1.75 per share.

SEE "RISK FACTORS" BEGINNING ON PAGE 4 FOR A DESCRIPTION OF CERTAIN MATTERS WHICH YOU SHOULD CONSIDER BEFORE INVESTING IN OUR COMMON STOCK.

NEITHER THE SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE SECURITIES COMMISSION HAS APPROVED OR DISAPPROVED OF THESE SECURITIES OR DETERMINED IF THIS PROSPECTUS IS TRUTHFUL OR COMPLETE. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

The date of this Prospectus is _____, 2004.

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

ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement that we filed with the Securities and Exchange Commission utilizing a "shelf" registration process. Under this shelf process, the selling shareholders shown in this prospectus may sell up to an aggregate of 4,177,192 shares of our common stock. This prospectus provides you with a general description of our common stock which the selling shareholders may offer. When the selling shareholders sell our common stock, we may provide, if necessary, a prospectus supplement which will contain specific terms of that offering. The prospectus supplement may also add, update or change information contained in this prospectus. You should read this prospectus and any prospectus supplement together with the additional information described under the heading "Where You Can Find More Information."

SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus contains or incorporates by reference statements about our future which are "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. This act provides a "safe harbor" for forward-looking statements to encourage companies to provide prospective information about themselves so long as they identify these statements as forward-looking and provide meaningful cautionary statements identifying important factors which could cause actual results to differ from the projected results. All statements other than statements of historical fact we make in this

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prospectus or any other document incorporated by reference are forward-looking. In some cases, you can identify these forward-looking statements by terminology such as "believes," "expects," "may," "will," "should," "seeks," "approximately," "intends," "plans," "estimates," or "anticipates" or the negative of those words or other comparable terminology. In evaluating these statements, you should specifically consider various factors, including the risks outlined under the caption "Risk Factors" in this prospectus. You should pay particular attention to the cautionary statements involving our history of losses, our capital requirements, our expansion and acquisition strategies, competition and government regulation. These factors and the others set forth under "Risk Factors" may cause our actual results to differ materially and adversely from any forward-looking statement.

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PROSPECTUS SUMMARY

Because this is a summary, it may not contain all information which may be important to you. You should read this entire prospectus, including the information incorporated by reference, before you decide whether to buy our common stock. You should pay special attention to the risks of investing in our common stock as discussed under "Risk Factors."

STREICHER MOBILE FUELING, INC.

We provide mobile fueling and fuel management out-sourced services to businesses that operate fleets of vehicles and equipment of various sizes, including governmental agencies, utilities, trucking companies, bus lines, hauling and delivery services, courier services, construction companies and others. Our specialized trust fleet delivers fuel to customers' locations on a regularly scheduled or as needed basis, refueling vehicles and equipment and/or resupplying fixed-site storage facilities. Our patented proprietary electronic fuel tracking control system is used to measure, record and track fuel dispensed to each vehicle and tank fueled at a customer location, allowing verification of the amount and type of fuel delivered and providing customers with customized fleet fuel data for management analysis and tax reporting.

We believe that our mobile fueling services provide numerous advantages to our customers, including:

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- o lower labor and administrative costs associated with fueling vehicles
- o centralized control over fuel inventories and usage
- o tax reporting benefits
- o elimination of costs and the risk of environmental liabilities associated with on-site fuel storage and dispensing facilities
- o lower risk of employee theft of fuel
- o emergency fuel availability and
- o the elimination of security risks associated with off-site fueling by employees

We presently operate over 100 custom mobile fueling trucks from 13 service locations in California, Florida, Georgia, North Carolina, Tennessee and Texas and are seeking to increase market penetration in our existing service areas and to develop operations in new markets.

We are a Florida corporation. Our principal executive office is located at 800 West Cypress Creek Road, Suite 580, Ft. Lauderdale, Florida 33309, and our phone number is (954) 308-4200.

THE OFFERING

| | |
|--------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Securities Offered by the Selling Shareholders..... | 4,177,192 shares of common stock. |
| Use of Proceeds..... | We will receive up to \$2,079,135 upon the exercise of the warrants by the selling shareholders. We will not receive any of the proceeds from the sale of the common stock or warrants by the selling shareholders. |
| Trading..... | Our common stock is quoted on the Nasdaq SmallCap Market under the symbol "FUEL." |

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RISK FACTORS

You should carefully read and consider the following factors and other information included or incorporated by reference in this prospectus before investing in our common stock.

NO ASSURANCES OF FUTURE PROFITABILITY; LOSSES FROM OPERATIONS; NEED FOR CAPITAL. We incurred net losses for the fiscal years ended June 30, 2003 and 2002 as well as the transition period ended June 30, 2001. We earned a profit in the fiscal year ended January 31, 2000, the fourth quarter ended June 30, 2002 and the first quarter ended September 30, 2002. In order for us to earn profits in the future, we need to increase volumes at profitable margins, control costs and generate sufficient cash flow to support our working capital and debt service requirements. There is no assurance that management will be able to accomplish our business plan, or that we will be able to continue to raise capital to support a working capital or debt service shortfall during any business downturns.

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TRADING MARKET FOR THE COMPANY'S COMMON STOCK. Our common stock is thinly traded which could make it difficult for shareholders to sell shares at a predictable price or at all. In addition, there may be volatility in the market price of our common stock due to factors beyond our control. Our quarterly operating results, changes in general conditions in the economy, the financial markets or other developments affecting us could cause the market price of our common stock to fluctuate, making it difficult for shareholders to sell shares at predictable prices or times.

GROWTH DEPENDENT UPON EXPANSION; RISKS ASSOCIATED WITH EXPANSION INTO NEW MARKETS. A significant component of our future growth strategy will be to expand our business into new service locations. We intend to expand into additional major and secondary metropolitan areas. Expansion will largely be dependent on our ability to demonstrate the benefits of mobile fueling to potential new customers; successfully establish and operate new locations; hire, train and retain qualified management, operating, marketing and sales personnel; finance capital expenditures and working capital requirements; secure reliable sources of product supply on a timely basis and on commercially acceptable credit terms; and successfully manage growth by effectively supervising operations, controlling costs and maintaining appropriate quality controls. Our growth will depend upon our ability to achieve greater penetration in existing markets and to successfully penetrate new markets. We may also seek to expand through the acquisition of existing companies or their customer bases. During the fiscal year ended June 30, 2003, we commenced operations in the Greensboro, North Carolina market. However, there can be no assurance that we will be able to further expand our operations.

ACQUISITION AVAILABILITY; INTEGRATING ACQUISITIONS. Our future growth strategy may involve the acquisition of mobile fueling companies, wholesale fuel or petroleum lubricant distributors or other related entities and businesses in existing and new markets. There can be no assurance that we will be able to locate or make suitable acquisitions on acceptable terms or that future acquisitions will be effectively and profitably integrated into our existing business. Acquisitions involve risks that could adversely affect our operating results, including management commitment; integration of the operations and personnel of the acquired operations; write downs of acquired intangible assets; and possible loss of key employees of the acquired operations.

DEPENDENCE ON KEY PERSONNEL. Our future success will be largely dependent on the continued services and efforts of Richard E. Gathright, our President and Chief Executive Officer, and other key personnel. The loss of the services of Mr. Gathright or other key personnel could have a material adverse effect on our business and prospects. Our success and plans for future growth will also depend on our ability to attract and retain additional qualified management, operating, marketing, sales and financial personnel. There can be no assurance that we will be able to hire or retain such personnel on terms satisfactory to us. We have entered into an employment agreement with Mr. Gathright which expires October 31, 2004. We have also entered into written employment agreements with certain other of our officers.

FUEL PRICING; EFFECT ON PROFITABILITY. Diesel fuel and gasoline are commodities which are refined and distributed by numerous sources. We purchase the fuel delivered to our customers from multiple suppliers at daily market prices and in some cases qualifies for volume discounts. We monitor fuel prices and trends in each of our service markets on a daily basis and seeks to purchase our supply at the lowest prices and under the most favorable terms. Commodity price risk is mitigated since we purchase and deliver our fuel supply daily and utilizes cost-plus

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pricing to our customers. If we cannot pass on the cost-plus pricing to our customers, margins would decrease and a loss could be incurred. We have not engaged in derivatives or futures trading to hedge fuel price movements.

RISKS ASSOCIATED WITH CUSTOMER CONCENTRATION; ABSENCE OF WRITTEN AGREEMENTS. Although we provide services to an extensive number of customers, a significant portion of our revenue is generated from a few of our larger customers. While we have formal, length of service written contracts with some of these larger customers, such agreements are not customary in the mobile fueling business and have not been entered into by us with the majority of our customers. As a result, most of our customers can terminate our mobile fueling services at any time and for any reason, and we can similarly discontinue service to any customer. We may discontinue service to a customer if changes in the service conditions or other factors cause us not to meet our minimum level of margins and rates, and the pricing or delivery arrangements cannot be re-negotiated. As a result of this customer concentration and absence of written agreements, our business, results of operations and financial condition could be materially adversely affected if one or more of our large customers were lost or if we were to experience a high rate of contract terminations.

MANAGEMENT OF GROWTH. Our future growth strategy is dependent on effective operational, financial and other internal systems, and the ability to attract, train, motivate, manage and retain our employees. If we are unable to manage growth effectively, our results of operations will be adversely affected.

COMPETITION. We compete with other mobile fueling service providers, including several regional companies and numerous small, independent operators who provide these services. We also compete with retail marketing where fleet operators have the option of fueling their own equipment at retail stations and other third-party service locations. Our ability to compete is dependent on numerous factors, including price, delivery dependability, credit terms, service locations, and reporting and invoicing services. There can be no assurance that we will be able to continue to compete successfully as a result of these or other factors.

OPERATING RISKS MAY NOT BE COVERED BY INSURANCE. Our operations are subject to all of the operating hazards and risks normally incidental to handling, storing and transporting diesel fuel and gasoline, which are classified as hazardous materials. We maintain insurance policies in such amounts and with such coverages and deductibles as we believe are reasonable and prudent. However, there can be no assurance that such insurance will be adequate to protect us from liabilities and expenses that may arise from claims for personal and property damage arising in the ordinary course of business or that such levels of insurance will be maintained by us or will be available at economical prices.

GOVERNMENTAL REGULATION. Our operations are affected by numerous federal, state and local laws, regulations and ordinances, including those relating to protection of the environment and worker safety. Various federal, state and local agencies have broad powers under these laws, regulations and ordinances. In particular, the operation of our mobile fueling fleet and our transportation of diesel fuel and gasoline are subject to extensive regulation by the U.S. Department of Transportation ("DOT") under the Federal Motor Carrier Safety Act ("FMCSA") and the Hazardous Materials Transportation Act ("HMTA"). We are subject to regulatory and legislative changes that can affect the economics of the industry by requiring changes in operating practices or influencing the demand for, and the cost of providing, our services. In addition, we depend on the supply of diesel fuel and gasoline from the oil and gas industry and, therefore, are affected by changing taxes, price controls and other laws and

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regulations generally relating to the oil and gas industry. We cannot determine the extent to which our future operations and earnings may be affected by new legislation, new regulations or changes in existing regulations.

The technical requirements of these laws and regulations are becoming increasingly expensive, complex and stringent. These laws may impose penalties or sanctions for damages to natural resources or threats to public health and safety. Such laws and regulations may also expose us to liability for the conduct of or conditions caused by others, or for our acts that were in compliance with all applicable laws at the time such acts were performed. Sanctions for noncompliance may include revocation of permits, corrective action orders, administrative or civil penalties and criminal prosecution. Certain environmental laws provide for joint and several liability for remediation of spills and releases of hazardous substances. In addition, we may be subject to claims alleging personal injury or property damage as a result of alleged exposure to hazardous substances, as well as damage to natural resources.

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Although we believe that we are in substantial compliance with existing laws and regulations, there can be no assurance that substantial costs for compliance will not be incurred in the future. There could be an adverse affect upon our operations if there were any substantial violations of these rules and regulations. Moreover, it is possible that other developments, such as stricter environmental laws, regulations and enforcement policies thereunder, could result in additional, presently unquantifiable, costs or liabilities to us.

CHANGES IN ENVIRONMENTAL REQUIREMENTS. We expect to derive future business by converting to mobile fueling fleet operators currently utilizing underground fuel storage tanks for their fueling needs. The owners of underground storage tanks have been required to remove or retrofit those tanks to comply with technical regulatory requirements pertaining to their construction and operation. If other more economical means of compliance are developed or adopted by owners of underground storage tanks, the opportunity for us to market our services to such owners may be adversely affected.

USE OF PROCEEDS

We will receive up to \$2,079,135 upon the exercise of the warrants by the selling shareholders. We will not receive any of the proceeds from the sales of our common stock or the warrants by the selling shareholders. Expenses expected to be incurred in connection with this offering are estimated to be approximately \$36,000.

SELLING SHAREHOLDERS

Of the 4,177,192 shares of our common stock registered by this prospectus:

- o 666,666 were issued to certain selling shareholders in a private placement of our common stock in June 2001;
- o 1,357,136 were issued to certain selling shareholders upon the conversion of promissory notes into our common stock on January 31, 2001 and January 15, 2002;
- o 2,090,675 are issuable to certain selling shareholders upon the exercise of warrants issued in private placements in May and August 2003; and

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- o 62,715 were issued in lieu of cash interest payments under certain promissory notes.

The following table sets forth certain information with respect to (1) in column one, the amount of shares of our common stock currently held by the selling shareholders; (2) in column two the number of shares of our common stock that would be beneficially owned by the selling shareholder assuming exercise of the warrants; (3) in column three, the percentage of ownership based on our 7,248,460 shares outstanding on March 16, 2004 by each selling shareholder, which assumes exercise of the warrants, all of which are currently exercisable; (4) in column four, the number of shares registered under this prospectus; (5) in column five, the number of shares beneficially owned after the offering, assuming the sale of all the shares registered, including shares issuable upon exercise of the warrants; and (6) in column six, the percentage of beneficial ownership based on our 9,339,135 shares outstanding on March 16, 2004 assuming sale of all the shares registered by the selling shareholders.

To the best of our knowledge, none of the selling shareholders has any position, office or other material relationship with us or any of our affiliates within the past three years except as described below:

- o Messrs. O'Connor and Picow are directors and shareholders of Fundamental Management Corporation. Fundamental manages two private funds, Active Investors II, Ltd. and Active Investors III, Ltd., who are investors in our securities. Each of Messrs. O'Connor and Picow disclaim any beneficial ownership in the shares held by those funds.
- o Messrs. O'Connor, Picow, Ryberg, Beard and Gathright are five of our directors.
- o Messrs. Gathright, Vinger, Williams and Shore are our executive officers.

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Except as set forth above, none of the selling shareholders has had positions, offices or other material relationships with us within the past three years. The selling shareholders are participating in this offering under registration rights presently granted to them. We have agreed to file and maintain the effectiveness of the registration statement of which this prospectus forms a part and to pay all fees and expenses incident to the registration of this offering, including all registration and filing fees, all fees and expenses of complying with state blue sky or securities laws, all costs of preparation of the registration statement and fees and disbursements of our counsel and independent public accountants.

| Name and Address of Beneficial Owner | Ownership of Shares Before the Offering | | | Percentage | Number of Shares Registered |
|----------------------------------------------------------------------------------------|--------------------------------------------|------------------------------------------------------|------------|------------|-----------------------------------|
| | Currently Held Shares | Shares Issuable Upon Conversion of Warrants | Percentage | | |
| C. RODNEY O'CONNOR c/o Cameron Associates 1370 Avenue of the Americas, Suite 902 | 1,130,558 (1) | 0 | 15.54 | 64 | |

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New York, NY 10019-4602

| | | | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|-------------|-------|----|
| ROBIN ARKIN c/o Cameron Associates 1370 Avenue of the Americas, Suite 902 New York, NY 10019-4602 | 166,324 (2) | 0 | 2.29 | |
| PAMELA F. O'CONNOR c/o Cameron Associates 1370 Avenue of the Americas, Suite 902 New York, NY 10019-4602 | 181,524 (2) | 0 | 2.5 | |
| ACTIVE INVESTORS II c/o Damaire Cano Secretary/Treasurer of Corporate General Partner Fundamental Management Corp. 8567 Coral Way #138 Miami, FL 33155-2335 | 1,083,526 | 0 | 14.95 | 37 |
| ACTIVE INVESTORS III c/o Damaire Cano Secretary/Treasurer of Corporate General Partner Fundamental Management Corp. 8567 Coral Way #138 Miami, FL 33155-2335 | 1,094,588 | 0 | 15.10 | 38 |
| ROBERT S. PICOW 7534 Isla Verde Way Delray Beach, FL 33446 | 223,726 (3) | 7,000 | 3.07 | 19 |
| GM JOHNSTON FAMILY LIMITED PARTNERSHIP 940 Apple Blossom Lane Springdale, AR 72762 | 514,000 (4) | 14,000 | 7.08 | 49 |
| AVENUE ASSET PARTNERS c/o George K. Parry 1150 .80Fifth Avenue New York, NY 10128 | 68,000 | 28,000 (13) | * | 2 |
| LEBOW FAMILY REVOCABLE TRUST 808 San Ysidro Lane Santa Barbara, CA 93108 | 82,000 | 7,000 (13) | 1.13 | |
| W. GREG RYBERG 413 Whiskey Rd. Aiken, SC 29801 | 99,750 (5) | 3,500 | 1.37 | |
| WENDELL R. BEARD 6903 S.W. 79th Place Miami, FL 33157 | 30,250 (6) | 3,500 | * | |

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Name and Address of Beneficial Owner

Ownership of Shares
Before the Offering

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| | Currently Held Shares | Shares Issuable Upon Conversion of Warrants | Percentage | Numb Sha Regis |
|-------------------------------------------------------------------------------------------------------------------------|--------------------------|------------------------------------------------------|------------|----------------------|
| | ----- | ----- | ----- | ----- |
| LARRY S. MULKEY P.O. Box 559 Placida, FL 33946 | 26,625 (7) | 3,500 | * | |
| RICHARD E. GATHRIGHT 800 West Cypress Creek Road, Suite 580 Fort Lauderdale, FL 33309 | 520,175 (8) | 3,675 | 6.71 | |
| PAUL C. VINGER 800 West Cypress Creek Road, Suite 580 Fort Lauderdale, FL 33309 | 54,250 (9) | 1,750 | * | |
| GARY G. WILLIAMS III 800 West Cypress Creek Road, Suite 580 Fort Lauderdale, FL 33309 | 52,250 (10) | 1,750 | * | |
| MICHAEL S. SHORE 800 West Cypress Creek Road, Suite 580 Fort Lauderdale, FL 33309 | 49,750 (11) | 1,750 | * | |
| TRIAGE OFFSHORE FUND, LTD. c/o Leon Frenkel, Sr. Manager 401 City Avenue, Suite 526 Bala Cynwyd, PA 19004 | 430,000 (12) | 430,000 | 5.6 | 43 |
| TRIAGE CAPITAL MANAGEMENT, L.P. c/o Leon Frenkel, Sr. Manager 401 City Avenue, Suite 526 Bala Cynwyd, PA 19004 | 170,000 (12) | 170,000 | 2.29 | 17 |
| L.B. PARTNERS, L.P. c/o Robert J. Bergman 960 Park Avenue, Apt. 10E New York, NY 10028 | 89,065 | 7,000 (13) | 1.23 | |
| AMIR ECKER 800 Newtown Road, Villanova, PA 19085 | 80,455 | 80,455 (13) | 1.1 | 8 |
| DELAWARE CHARTER GUARANTEE & TRUST TRUST FBO AMIR L.ECKER IRA 800 Newtown Road Villanova, PA 19085 | 31,250 | 31,250 (13) | * | 3 |
| THE ECKER FAMILY PARTNERSHIP 800 Newtown Road Villanova, PA 19085 | 45,000 | 45,000 (13) | * | 4 |
| AMIR L. and MARIA ECKER As Joint Tenants with Right of Survivorship 800 Newtown Road Villanova, PA 19085 | 18,750 | 18,750 (13) | * | 1 |
| R. SCOTT WILLIAMS 4 Timber Knoll Drive | 15,467 | 15,467 (13) | * | 1 |

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Washington Crossing, PA 18977

| | | | | |
|---------------------------------------------------------------|--------|-------------|---|---|
| JAMES S. ALLSOPP 225 Race Street Philadelphia, PA 19106 | 14,234 | 14,234 (13) | * | 1 |
|---------------------------------------------------------------|--------|-------------|---|---|

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| Name and Address of Beneficial Owner | Ownership of Shares Before the Offering | | | Number of Shares Registered |
|--------------------------------------------------------------------------------|--------------------------------------------|------------------------------------------------------|------------|-----------------------------------|
| | Currently Held Shares | Shares Issuable Upon Conversion of Warrants | Percentage | |
| SEAN MCDERMOTT 504 N. Wayne Ave. Wayne, PA 19087 | 44,641 | 44,641 (13) | * | 4 |
| ROBERT JACOBS 175 Berwind Circle Radnor, PA 19087 | 37,123 | 37,123 (13) | * | 3 |
| MARK ZIMMER 40 Junction Road South Berwick, ME 03908 | 37,123 | 37,123 (13) | * | 3 |
| ROBERT A. FISK 104 Dilworthtown Road Thornton, PA 19373 | 52,066 | 52,066 (13) | * | 5 |
| KEVIN HAMILTON P.O. Box 111 Wycombe, PA 18980 | 33,504 | 33,504 (13) | * | 3 |
| MICHAEL BEVILACQUA P.O. Box 1117 1097 Cortland Drive Lemont, PA 16851 | 25,000 | 25,000 (13) | * | 2 |
| CHAD A. DUBIN P.O. Box 1118 1085 Cortland Drive Lemont, PA 16851 | 25,000 | 25,000 (13) | * | 2 |
| CAROLYN WITTENBRAKER 3315 Southwestern Dallas, TX 75225 | 25,000 | 25,000 (13) | * | 2 |
| RICHARD A. JACOBY 2490 White Horse Road Berwyn, PA 19312 | 112,500 | 112,500 (13) | 1.53 | 11 |
| SCUDDER SMITH FAMILY ASSOCIATION, LLC | 25,000 | 25,000 (13) | * | 2 |

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c/o Helen W. Smith and
R. Scudder Smith
P.O. Box 5503 Newtown, CT 06470

| | | | | |
|---------------------------------------------------------------------------------------------------------------|--------------|-------------|------|---|
| FRANK CAMPBELL 106 Longview Circle Media, PA 19063 | 57,437 (14) | 26,137 | * | 2 |
| DELAWARE CHARTER CUST IRA FBO FRANK J. CAMPBELL, III 106 Longview Circle Media, PA 19063 | 369,364 (15) | 70,000 | 4.95 | 7 |
| MARTIN H. ORLINER REVOCABLE TRUST c/o Martin H. Orliner, Trustee 3201 Captains Way Jupiter, FL 33477 | 15,950 | 12,500 (13) | * | 1 |
| PETER RAWLINGS 1610 Old Gulph Rd. Villanova, PA 19085 | 12,500 | 12,500 (13) | * | 1 |

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| Name and Address of Beneficial Owner ----- | Ownership of Shares Before the Offering ----- | | | Numb Sha Regis |
|------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------|---------------------------------------------------------------|---------------------|----------------------|
| | Currently Held Shares ----- | Shares Issuable Upon Conversion of Warrants ----- | Percentage ----- | |
| GABRIEL ELIAS AND ALMA ELIAS As Joint Tenants with Right of Survivorship 509 Spring Avenue Elkins Park, PA 19027 | 125,000 | 125,000 (13) | 1.7 | 12 |
| ANTHONY MCDERMOTT 504 N. Wayne Ave. Wayne, PA 19087 | 62,500 | 62,500 (13) | * | 6 |
| LES R. BALEDGE 668 N. Sequoyah Drive Fayetteville, AR 72701 | 140,000 | 125,000 (13) | 1.9 | 12 |
| BEVERLIE F. WISSNER DECLARATION OF TRUST c/o Beverlie F. Wissner, Trustee 3470 Devon Pines Keswick, VA 22947 | 12,500 | 12,500 (13) | * | 1 |
| DAVID S. ALLSOPP 37 Cadogan Place London SWIX-9RX | 12,500 | 12,500 (13) | * | 1 |

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England, UK

| | | | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|-------------|------|---|
| JOSEPH KORNFELD 2740 Lundy Lane Huntingdon Valley, PA 19006 | 12,500 | 12,500 (13) | * | 1 |
| IRA FBO LEON FRENKEL Pershing, LLC As Custodian F/B/O IRA FBO LEONID FRENKEL, IRA Attn: Limited Partnership Dept., 7th Floor, 132741729 One Pershing Plaza Jersey City, NJ 07399 | 75,000 | 75,000 (13) | 1.02 | 7 |
| MARK WITTMAN 20 Beacon Hill Lane Phoenixville, PA 19460 | 12,500 | 12,500 (13) | * | 1 |
| PATRICIA MCDERMOTT 524 Morris Lane Berwyn, PA 19312 | 50,000 | 50,000 (13) | * | 5 |
| MERCER CARDIOLOGY ASSOCIATION PENSION TRUST c/o Philip Lebovitz and Alan Stern, Trustees 535 Countess Drive Yardley, PA 19067 | 25,000 | 25,000 (13) | * | 2 |
| WILLIAM B. SCHINK 386 June Road Samford, CT 06903 | 12,500 | 12,500 (13) | * | 1 |
| E. STEPHEN and CAROL ELLIS As Joint Tenants with Right of Survivorship 7317 Parliament Dr. Knoxville, TN 37919 | 12,500 | 12,500 (13) | * | 1 |

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| Name and Address of Beneficial Owner | Ownership of Shares Before the Offering | | | Number of Shares Registered |
|-------------------------------------------------------------------------------------------------------------------|-----------------------------------------|---------------------------------------------|------------|-----------------------------|
| | Currently Held Shares | Shares Issuable Upon Conversion of Warrants | Percentage | |
| Ira and GAIL LISH As Joint Tenants with Right of Survivorship 303 Blue Heron Court New Hope, PA 18938 | 12,500 | 12,500 (13) | * | 1 |

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| | | | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|--------------------|---|---------------|
| CAPITAL PROPERTIES LLC c/o Gus Blass III, General Manager 212 Center St., Suite 800 Little Rock, AR 72201 | 62,500 | 62,500 (13) | * | 6 |
| DENNIS L. ADAMS 120 Kynlyn Road Radnor, PA 19087 | 15,000 | 15,000 (13) | * | 1 |
| GREGORY G. FRANKENFIELD and CAROL G. FRANKENFIELD As Joint Tenants with Right of Survivorship 1601 Stonington Circle North Wales, PA 19454 | 7,500 | 7,500 (13) | * | |
| HARRY COGGSBALL 379 Golden Bear Drive, Unit #4 Pawleys Island, SC 29585 | 20,000 | 20,000 (13) | * | 2 |
| KELLY COGGSBALL 10 Haynes Creek Lane Medford, NJ 08055 | 10,000 | 10,000 (13) | * | 1 |
| Total..... | 7,823,725 ===== | 2,090,675 ===== | | 4,17 ===== |

* Less than 1% of the shares outstanding.

- (1) Includes 26,250 shares issuable upon the exercise of options that are presently exercisable. Excludes 347,848 shares owned by Mr. O'Connor's adult children, as to which shares Mr. O'Connor disclaims any beneficial ownership interest.
- (2) Ms. Arkin and Ms. O'Connor are adult children of Mr. O'Connor. He disclaims any ownership interest in the shares owned by them.
- (3) Includes 33,250 shares issuable upon the exercise of options and warrants that are presently exercisable.
- (4) Includes 14,000 shares issuable upon the exercise of warrants that are presently exercisable.
- (5) Includes 29,750 shares issuable upon the exercise of options and warrants that are presently exercisable.
- (6) Includes 29,750 shares issuable upon the exercise of options and warrants that are presently exercisable.
- (7) Includes 26,625 shares issuable upon the exercise of options and warrants that are presently exercisable.
- (8) Includes 503,675 shares issuable upon the exercise of options and warrants that are presently exercisable.
- (9) Includes 51,750 shares issuable upon the exercise of options and warrants that are presently exercisable. Excludes 20,000 issuable upon the exercise of options that are not presently exercisable.
- (10) Includes 49,750 shares issuable upon the exercise of options and warrants that are presently exercisable. Excludes 32,000 issuable upon the exercise of options that are not presently exercisable.
- (11) Consists of 49,750 shares issuable upon the exercise of options and warrants that are presently exercisable. Excludes 32,000 issuable upon the exercise of options that are not presently exercisable.
- (12) The holdings of Triage Management LLC consist of warrants that are owned and presently exercisable by Triage Offshore Fund, Ltd. (430,000 warrants) and Triage Capital Management, L.P. (170,000 warrants), two private funds that it manages, and by the IRA of Leon Frenkel (75,000 warrants) who is

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the manager of the funds.

- (13) The shares issuable upon exercise of these warrants are included in the first column for "Currently Held Shares."
- (14) Includes 31,137 shares issuable upon the exercise of warrants that are presently exercisable.
- (15) Includes 210,714 shares issuable upon the exercise of warrants that are presently exercisable.

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PLAN OF DISTRIBUTION

GENERAL

As used in this prospectus, the term "selling shareholders" includes the pledgees, donees, transferees and their successors in interest that receive the shares as a gift, partnership distribution or other non-sale related transfer.

Transactions. The selling shareholders may offer and sell their shares of common stock in one or more of the following transactions:

- o on the Nasdaq SmallCap Market,
- o in the over-the-counter market,
- o in privately negotiated transactions,
- o for settlement of short sales, or through long sales, options or transactions involving cross or block trades,
- o by pledges to secure debts and other obligations, or
- o in a combination of any of these transactions.

Prices. The selling shareholders may sell their shares of common stock at any of the following prices:

- o fixed prices which may be changed,
- o market prices prevailing at the time of sale,
- o prices related to prevailing market prices, or
- o privately negotiated prices.

Direct Sales; Agents, Dealers and Underwriters. The selling shareholders may effect transactions by selling their shares of common stock in any of the following ways:

- o directly to purchasers, or
- o to or through agents, brokers, dealers or underwriters designated from time to time.

Agents, dealers or underwriters may receive compensation in the form of underwriting discounts, concessions or commissions from the selling shareholders and/or the purchasers of shares for whom they act as agent or to whom they sell as principals, or both. The selling shareholders and any agents, dealers or underwriters that act in connection with the sale of shares might be deemed to be "underwriters" within the meaning of Section 2(11) of the Securities Act, and any discount or commission received by them and any profit on the resale of shares as principal might be deemed to be underwriting discounts or commissions under the Securities Act. Because the selling shareholders might be deemed to be underwriters, the selling shareholders will be subject to the prospectus delivery requirements of the Securities Act.

Each selling shareholder will be subject to applicable provisions of the Exchange Act and the associated rules and regulations under the Exchange Act,

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including Regulation M, which provisions may limit the timing of purchases and sales of shares of our common stock by the selling shareholders.

In addition, any shares that qualify for sale pursuant to Rule 144 under the Securities Act may be sold under Rule 144 rather than pursuant to this prospectus.

Supplements. To the extent required, we will set forth in a supplement to this prospectus filed with the SEC the number of shares to be sold, the purchase price and public offering price, the name or names of any agent, dealer or underwriter, and any applicable commissions or discounts with respect to a particular offering. In particular, upon being notified by a selling shareholder that a donee or pledgee intends to sell more than 500 shares, we will file a supplement to this prospectus.

State Securities Law. Under the securities laws of some states, the selling shareholders may only sell the shares in those states through registered or licensed brokers or dealers. In addition, in some states the selling

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shareholders may not sell the shares unless they have been registered or qualified for sale in that state or an exemption from registration or qualification is available and is satisfied.

Expenses; Indemnification. We will receive up to \$2,079,135 upon exercise of the warrants by the selling shareholders but we will not receive any of the proceeds from the sale of the common stock sold by the selling shareholders. We will bear all expenses related to the registration of this offering but will not pay for any underwriting commissions, fees or discounts, if any. We have agreed to indemnify the selling shareholders against some civil liabilities, including some liabilities which may arise under the Securities Act.

LEGAL MATTERS

Davis Graham & Stubbs LLP, Denver, Colorado provided us with an opinion as to legal matters in connection with the common stock offered by this prospectus.

EXPERTS

The consolidated balance sheets of Streicher Mobile Fueling, Inc. and its subsidiaries as of June 30, 2003 and 2002, and the related consolidated statements of operations, shareholders' equity, and cash flows for the years ended June 30, 2003 and 2002, the five-month transition period ended June 30, 2001, and the year ended January 31, 2001 have been incorporated by reference herein and in the registration statement in reliance upon the report of KPMG LLP, independent accountants, incorporated by reference herein, and upon the authority of said firm as experts in accounting and auditing.

WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and special reports, proxy statements and other information with the Securities and Exchange Commission. You may read and copy any documents we file at the Securities and Exchange Commission's Public Reference Room at 450 Fifth Street, N.W., Washington, D.C. 20549. Please call the Securities and Exchange Commission at 1-800-SEC-0330 for information on the operation of the Public Reference Room. Our SEC filings are also available to the public from the SEC's Website at "<http://www.sec.gov>."

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The Securities and Exchange Commission allows us to "incorporate by reference" the information we file with them, which means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is considered to be part of this prospectus, and information we later file with the Securities and Exchange Commission will automatically update and supersede this information. We incorporate by reference the documents listed below and any future filings we will make with the Securities and Exchange Commission under Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act until this offering is completed:

- o Our Annual Report on Form 10-K for the fiscal year ended June 30, 2003;
- o Our Quarterly Reports on Form 10-Q for the quarterly periods ended September 30, 2003 and December 31, 2003;
- o All other reports filed pursuant to Section 13(a) or 15(d) of the Exchange Act filed since June 30, 2003; and
- o The description of our common stock contained in the Registration Statement on Form 8-A filed on December 5, 1996, under Section 12(g) of the Exchange Act.

You may request a copy of these filings, at no cost, by writing or telephoning us at the following address:

Streicher Mobile Fueling, Inc.
800 West Cypress Creek Road, Suite 580
Fort Lauderdale, Florida 33309
Attention: Secretary
(954) 308-4200

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You should rely only on the information incorporated by reference or provided in this prospectus or any prospectus supplement. We have not authorized anyone else to provide you with different information. This prospectus is not an offer of our common stock in any state where the offer is not permitted. You should not assume that the information in this prospectus or any prospectus supplement is accurate as of any date other than the date on the front of those documents.

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PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

ITEM 14. OTHER EXPENSES OF ISSUANCE AND DISTRIBUTION(1)

The following table sets forth the costs and expenses (subject to future contingencies) incurred or expected to be incurred by the Registrant in connection with the offering. The Registrant has agreed to pay all the costs and expenses of this offering.

| | | |
|----------------------------------------------------------|----|-----|
| Securities and Exchange Commission Registration Fee..... | \$ | 963 |
|----------------------------------------------------------|----|-----|

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| | |
|-----------------------------------|-----------|
| Accounting Fees and Expenses..... | 8,000 |
| Legal Fees and Expenses..... | 25,000 |
| Miscellaneous..... | 2,037 |
| Total..... | \$ 36,000 |

(1) The amounts set forth above are in each case estimated.

ITEM 15. INDEMNIFICATION OF DIRECTORS AND OFFICERS

FLORIDA BUSINESS CORPORATION ACT. Section 607.0850 of the Florida Business Corporation Act (the "FBCA") generally permits the Registrant to indemnify its directors, officers, employees and other agents who are subject to any third-party actions because of their service to the Registrant if such persons acted in good faith and in a manner they reasonably believed to be in, or not opposed to, the best interests of the Registrant. If the proceeding is a criminal one, such person must also have had no reasonable cause to believe his conduct was unlawful. In addition, the Registrant may indemnify its directors, officers, employees or other agents who are subject to derivative actions against expenses and amounts paid in settlement which do not exceed, in the judgment of the board of directors, the estimated expense of litigating the proceeding to conclusion, actually and reasonably incurred in connection with the defense or settlement of such proceeding, if such person acted in good faith and in a manner such person reasonably believed to be in, or not opposed to, the best interests of the Registrant. To the extent that a director, officer, employee or other agent is successful on the merits or otherwise in defense of a third-party or derivative action, such person will be indemnified against expenses actually and reasonably incurred in connection therewith. This Section also permits a corporation further to indemnify such persons by other means unless a judgment or other final adjudication establishes that such person's actions or omissions which were material to the cause of action constitute (1) a crime (unless such person had reasonable cause to believe his conduct was lawful or had no reasonable cause to believe it unlawful), (2) a transaction from which he derived an improper personal benefit, (3) a transaction in violation of Section 607.0834 of the FBCA (unlawful distributions to shareholders), or (4) willful misconduct or a conscious disregard for the best interests of the corporation in a proceeding by or in the right of the corporation to procure a judgment in its favor or in a proceeding by or in the right of a shareholder.

Furthermore, Section 607.0831 of the FBCA provides, in general, that no director shall be personally liable for monetary damages to the Registrant or any other person for any statement, vote, decision, or failure to act, regarding corporate management or policy, unless: (a) the director breached or failed to perform his duties as a director; and (b) the director's breach of, or failure to perform, those duties constitutes (i) a violation of criminal law, unless the director had reasonable cause to believe his conduct was lawful or had no reasonable cause to believe his conduct was unlawful, (ii) a transaction from which the director derived an improper personal benefit, either directly or indirectly, (iii) a circumstance under which the liability provisions of Section 607.0834 of the FBCA are applicable, (iv) in a proceeding by or in the right of the Registrant to procure a judgment in its favor or by or in the right of a shareholder, conscious disregard for the best interest of the Registrant, or willful misconduct, or (v) in a proceeding by or in the right of someone other than the Registrant or a shareholder, recklessness or an act or omission which was committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. The term "recklessness," as used above, means the action, or omission to act, in conscious disregard of a risk: (a) known, or so obvious that it should have been known, to the directors; and (b) known to the director, or so obvious that it should have been known, to be so great as to make it highly probable that harm would follow from such action or omission.

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INSURANCE. In addition to the foregoing, the Registrant carries insurance permitted by the laws of Florida on behalf of directors, officers, employees or agents which may cover, among other things, liabilities under the Securities Act of 1933, as amended.

ITEM 16. EXHIBITS

| Exhibit | Description |
|---------|--------------------------------------------------------------------------------------------------------------------------------|
| ----- | ----- |
| 4.1 | Form of Common Stock Certificate filed as Exhibit 4.1 to the Registrant's Registration Statement on Form SB-2 (No. 333-11541). |
| 4.2 | Form of Stock Purchase Warrant issued to May 2003 investors. |
| 4.3 | Form of Stock Purchase Warrant issued to August 2003 investors. |
| 4.4 | Stock Purchase Warrant issued to Philadelphia Brokerage Corporation as placement agent. |
| 5.1 | Opinion of Davis Graham & Stubbs LLP |
| 23.1 | Consent of KPMG LLP |
| 23.2 | Consent of Davis Graham & Stubbs LLP is contained in its opinion filed as Exhibit 5.1 |
| 24.1 | Power of Attorney (included in signature page) |

ITEM 17. 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 of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the 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 the 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 a 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement.

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

(2) That, for the purpose of determining any liability under the Securities Act of 1933, 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

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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 of 1933, each filing of the Company's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in this registration statement shall be deemed to be a new registration statement relating to the securities offered thereby, and the offering of such securities at the time shall be deemed to be the initial bona fide offering thereof.

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(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, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Fort Lauderdale, State of Florida, on March 17, 2004.

STREICHER MOBILE FUELING, INC.

By: /s/ RICHARD E. GATHRIGHT

Richard E. Gathright, President and
Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints Richard E. Gathright and Michael S. Shore

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his true and lawful attorneys-in-fact, each acting alone, with full powers of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities, to sign any or all amendments, including any post-effective amendments, to this registration statement, or any registration statement relating to this offering to be effective upon filing pursuant to Rule 462(b) under the Securities Act of 1933, and to file the same, with exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that said attorneys-in-fact or their substitutes, each acting alone, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the date indicated.

| Signature ----- | Title ----- | Date ---- |
|----------------------------------------------------------|------------------------------------------------------------------------------------------------------|----------------|
| /s/RICHARD E. GATHRIGHT ----- Richard E. Gathright | President, Chief Executive Officer and Director (principal executive officer) | March 17, 2004 |
| /s/MICHAEL S. SHORE ----- Michael S. Shore | Sr. Vice President and Chief Financial Officer (principal financial and accounting officer) | March 17, 2004 |
| /s/WENDELL R. BEARD ----- Wendell R. Beard | Director | March 17, 2004 |
| /s/RICHARD N. HAMLIN ----- Richard N. Hamlin | Director | March 17, 2004 |
| /s/LARRY S. MULKEY ----- Larry S. Mulkey | Director | March 17, 2004 |
| /s/C. RODNEY O'CONNOR ----- C. Rodney O'Connor | Director | March 17, 2004 |
| /s/ROBERT S. PICOW ----- Robert S. Picow | Director | March 17, 2004 |
| /s/W. GREG RYBERG ----- W. Greg Ryberg | Director | March 17, 2004 |

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EXHIBIT INDEX

4.2 Form of Stock Purchase Warrant issued to May 2003 investors.

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- 4.3 Form of Stock Purchase Warrant issued to August 2003 investors.
- 4.4 Stock Purchase Warrant issued to Philadelphia Brokerage Corporation as placement agent.
- 5.1 Opinion of Davis Graham & Stubbs LLP
- 23.1 Consent of KPMG LLP
- 24.1 Power of Attorney (included in the signature page)