

OVERTON DAVID  
Form 5  
February 13, 2009

# FORM 5

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

OMB APPROVAL  
OMB Number: 3235-0362  
Expires: January 31, 2005  
Estimated average burden hours per response... 1.0

Check this box if no longer subject to Section 16. Form 4 or Form 5 obligations may continue. See Instruction 1(b).  
Form 3 Holdings Reported Form 4 Transactions Reported

## ANNUAL STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF SECURITIES

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934, Section 17(a) of the Public Utility Holding Company Act of 1935 or Section 30(h) of the Investment Company Act of 1940

1. Name and Address of Reporting Person \*  
OVERTON DAVID

2. Issuer Name and Ticker or Trading Symbol  
CHEESECAKE FACTORY INC  
[CAKE]

5. Relationship of Reporting Person(s) to Issuer

(Check all applicable)

(Last) (First) (Middle)

3. Statement for Issuer's Fiscal Year Ended (Month/Day/Year)  
12/30/2008

Director  10% Owner  
 Officer (give title below)  Other (specify below)  
Chairman and C.E.O.

26901 MALIBU HILLS ROAD

(Street)

4. If Amendment, Date Original Filed(Month/Day/Year)

6. Individual or Joint/Group Reporting

(check applicable line)

CALABASAS  
HILLS, CA 91301

(City) (State) (Zip)

Form Filed by One Reporting Person  
 Form Filed by More than One Reporting Person

### Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned

1. Title of Security (Instr. 3)	2. Transaction Date (Month/Day/Year)	2A. Deemed Execution Date, if any (Month/Day/Year)	3. Transaction Code (Instr. 8)	4. Securities Acquired (A) or Disposed of (D) (Instr. 3, 4 and 5) (A) or (D) Price	5. Amount of Securities Beneficially Owned at end of Issuer's Fiscal Year (Instr. 3 and 4)	6. Ownership Form: Direct (D) or Indirect (I) (Instr. 4)	7. Nature of Indirect Ownership (Instr. 4)
---------------------------------	--------------------------------------	--	--------------------------------	---	--	--	--

Reminder: Report on a separate line for each class of securities beneficially owned directly or indirectly.

**Persons who respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB control number.**

SEC 2270 (9-02)

### Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned (e.g., puts, calls, warrants, options, convertible securities)

1. Title of Derivative Security (Instr. 3)	2. Conversion or Exercise Price of	3. Transaction Date (Month/Day/Year)	3A. Deemed Execution Date, if any (Month/Day/Year)	4. Transaction Code (Instr. 8)	5. Number of Derivative Securities Acquired (A) or	6. Date Exercisable and Expiration Date (Month/Day/Year)	7. Title and Underlying Security (Instr. 3 and 4)
--	------------------------------------	--------------------------------------	--	--------------------------------	--	--	---

# Edgar Filing: OVERTON DAVID - Form 5

Derivative Security					Disposed of (D)		Date Exercisable	Expiration Date	Title
					(A)	(D)			
Employee Stock Option (right to buy)	\$ 36.87	06/06/2008	Â	D4	Â	100,000	01/04/2007 <sup>(3)</sup>	01/04/2016	Common Stock
Employee Stock Option (right to buy)	\$ 32.32	06/06/2008	Â	D4	Â	37,804	01/03/2006	01/04/2016	Common Stock

## Reporting Owners

Reporting Owner Name / Address	Relationships			
	Director	10% Owner	Officer	Other
OVERTON DAVID 26901 MALIBU HILLS ROAD CALABASAS HILLS, CA 91301	Â X	Â	Â Chairman and C.E.O.	Â

## Signatures

David Overton by Debby Zurzolo, his attorney in fact

02/13/2009

\*\*Signature of Reporting Person

Date

## Explanation of Responses:

- \* If the form is filed by more than one reporting person, see Instruction 4(b)(v).
  - \*\* Intentional misstatements or omissions of facts constitute Federal Criminal Violations. See 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).
- The option was canceled pursuant to The Cheesecake Factory Incorporated's stipulated settlement of certain options derivative actions.
- (1) The reporting person received \$269,290 as consideration for the cancellation, which was tendered to the Company in payment of the reporting person's obligation under the options derivative actions.
- The option was canceled pursuant to The Cheesecake Factory, Incorporated's stipulated settlement of certain options derivative actions.
- (2) The reporting person received \$124,712 as consideration for the cancellation, which was tendered to the Company in payment of the reporting person's obligation under the options derivative actions.
  - (3) At the cancellation date, 40,000 of 100,000 options remained unvested. These 40,000 unvested options would have vested in increments of 20,000 on each of 1/3/2009 and 1/03/2010.

Note: File three copies of this Form, one of which must be manually signed. If space provided is insufficient, see Instruction 6 for procedure. Potential persons who are to respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB number.