

TASTY BAKING CO
Form SC 14D9/A
April 25, 2011

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE 14D-9
(Rule 14d-101)

Solicitation/Recommendation Statement Under Section 14(d)(4)
of the Securities Exchange Act of 1934

(Amendment No. 1)

TASTY BAKING COMPANY
(Name of Subject Company)

TASTY BAKING COMPANY
(Name of Person Filing Statement)

Common Stock, par value \$0.50 per share
(Title of Class of Securities)

876553306
(CUSIP Number of Class of Securities)

Laurence Weilheimer
Senior Vice President and General Counsel
Navy Yard Corporate Center
Three Crescent Drive, Suite 200
Philadelphia, Pennsylvania 19112
(215) 221-8500

(Name, Address and Telephone Number of Person Authorized to Receive Notices and
Communications on Behalf of Person Filing Statement)

Copy to:
Eric D. Schoenborn
Stradley Ronon Stevens & Young, LLP
Woodland Falls Corporate Park
200 Lake Drive East, Suite 100
Cherry, Hill, NJ 08002
(856) 321-2413

.. Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

Introduction

This Amendment No. 1 (this “Amendment”) amends and supplements the Solicitation/Recommendation Statement on Schedule 14D-9 (as amended or supplemented from time to time, the “Statement”) originally filed with the U.S. Securities and Exchange Commission (the “SEC”) by Tasty Baking Company, a Pennsylvania corporation (“Tasty”), on April 21, 2011. The Statement relates to the offer by Compass Merger Sub, Inc., a Pennsylvania corporation (“Merger Sub”) and a wholly-owned subsidiary of Flowers Foods, Inc., a Georgia corporation (“Flowers”), to purchase all of the outstanding shares of common stock, par value \$0.50 per share, of Tasty at a purchase price of \$4.00 per share, net to the selling shareholder in cash, without interest and subject to any required withholding taxes, upon the terms and subject to the conditions set forth in the Offer to Purchase dated April 21, 2011, and in the related Letter of Transmittal, copies of which are attached to the Tender Offer Statement on Schedule TO filed by Flowers and certain of its affiliates, including Merger Sub, with the SEC on April 21, 2011.

Except as otherwise set forth below, the information set forth in the original Statement remains unchanged and is incorporated herein by reference as relevant to the items in this Amendment. Capitalized terms used but not defined herein have the meanings ascribed to them in the Statement.

Item 8. Additional Information.

Item 8 of Tasty’s Schedule 14D-9 is hereby amended and supplemented by adding the following after the paragraph entitled “Rights Agreement; Amendment.” under Item 8:

“Litigation.

On April 21, 2011, a Verified Shareholder Derivative and Class Action Complaint was filed in Michelsen and Enoch v. Tasty Baking Company, et al., No. 11-04-02487, pending in the Court of Common Pleas of Philadelphia County, Pennsylvania (“Complaint”). The Complaint names as defendants the members of Tasty’s Board of Directors, as well as Tasty, Flowers and Flowers Bakeries, LLC, a Georgia limited liability company and wholly-owned subsidiary of Flowers (“Flowers Bakeries”). The Complaint alleges, among other things, that Tasty’s directors breached their fiduciary duties to Tasty’s shareholders in connection with the Offer and the Merger, and further claims that Flowers and Flowers Bakeries aided and abetted those alleged breaches of fiduciary duty. The Complaint further alleges that Tasty’s directors engaged in the waste of Tasty’s assets by entering into the Merger Agreement. The Complaint also alleges that the Offer and Merger between Tasty and Flowers involves an unfair price, an unfair and self-serving sales process with preclusive deal protection devices, and that Tasty’s directors agreed to the transactions to benefit themselves personally. The Complaint seeks rescission of the Merger Agreement and injunctive relief, including to enjoin the Offer and Merger, and an award of attorneys’ and other fees and costs, in addition to other relief. Tasty believes the allegations of the Complaint lack merit, and will contest them vigorously.

With respect to the foregoing matters, there can be no assurance that Tasty will be successful in the defense of such matters.”

SIGNATURE

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Tasty Baking Company

By: /s/ Charles P.
Pizzi
Name: Charles P.
Pizzi
Title: President and
Chief
Executive
Officer

Dated: April 25, 2011