SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 10-Q

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

For the quarterly period ended June 30, 2024

or

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

For the transition period from ________________________ to ________________________

Commission File Number: 001-41147

Fresh Vine Wine, Inc.
(Exact name of registrant as specified in its charter)

Nevada	87-3905007
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
P.O. Box 78984	Charlotte, NC 28271
(Address of principal executive offices)	(Zip Code)

(855) 766-9463
(Registrant's telephone number, including area code)

(Former name, former address and former fiscal year, if changed since last report)

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common stock, $0.001 par value	VINE	NYSE American

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

☒ Yes ☐ No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files).

☒ Yes ☐ No

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 ☐	Accelerated filer ☐
Non-accelerated filer ☒	Smaller reporting company ☒
	Emerging growth company ☒

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 13(a) of the Exchange Act. ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). ☐ Yes ☒ No

As of August 14, 2024, the registrant had 15,976,227 shares of common stock outstanding.

FRESH VINE WINE, INC.

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Cautionary Statement Concerning Forward-Looking Statements

We make forward-looking statements in this Quarterly Report on Form 10-Q. In some cases, you can identify these statements by forward-looking words such as "may," "might," "should," "would," "could," "expect," "plan," "anticipate," "intend," "believe," "estimate," "predict," "potential" or "continue," and the negative of these terms and other comparable terminology. These forward-looking statements, which are subject to known and unknown risks, uncertainties, and assumptions about us, may include projections of our future financial performance based on our growth strategies and anticipated trends in our business. These statements are only predictions based on our current expectations and projections about future events. There are important factors that could cause our actual results, level of activity, performance, or achievements to differ materially from the results, level of activity, performance or achievements expressed or implied by the forward-looking statements. In particular, you should consider the numerous risks and uncertainties described in the section titled "Risk Factors" in our Annual Report on Form 10-K for the fiscal year ended December 31, 2023 and elsewhere such Annual Report, in the other reports and documents that we file with the SEC, and in this Quarterly Report on Form 10-Q.

While we believe we have identified material risks, these risks and uncertainties are not exhaustive. New risks and uncertainties emerge from time to time, and it is not possible to predict all risks and uncertainties, nor can we assess the impact of all factors on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements.

Although we believe the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee future results, level of activity, performance, or achievements. Moreover, neither we nor any other person assumes responsibility for the accuracy or completeness of any of these forward-looking statements. You should not rely upon forward-looking statements as predictions of future events. The forward-looking statements in this report represent our views as of the date on which the statements are made. We undertake no obligation to update any forward-looking statements whether as a result of new information, future developments or otherwise, and we do not intend to do so.

Forward-looking statements include, but are not limited to, statements about:

- our ability to continue as a going concern in the absence of obtaining additional financing;
- our ability to obtain additional financing within timeframes required on terms acceptable to us, or at all;
- our ability to regain and maintain compliance with NYSE American continued listing standards and ultimately maintain the listing of our common stock on NYSE American;
- our intentions to pursue and complete a business combination transaction with a suitable target company;
- the strategy or future operations of our company;
- our company's projected financial performance;
- expectations concerning Fresh Vine's relationships and actions with third parties;
- our ability to retain or recruit, or effect changes required in, our officers, key employees or directors;
- future regulatory, judicial and legislative changes in Fresh Vine's industry;
- our reliance on our brand name, reputation and product quality;
- our ability to adequately address the demands that may be placed on our management, operational and production capabilities;
- the effectiveness of our advertising and promotional activities and investments;
- our ability to refocus our marketing and brand promotion efforts following the termination of the license agreements with our celebrity brand ambassadors;

- general competitive conditions, including actions our competitors may take to grow their businesses;
- fluctuations in consumer demand for wine;
- overall decline in the health of the economy and consumer discretionary spending;
- the occurrence of adverse weather events, natural disasters, public health emergencies or other unforeseen circumstances that may cause delays to or interruptions in our operations;
- risks associated with disruptions in our supply chain for grapes and raw and processed materials, including corks, glass bottles, barrels, winemaking additives and agents, water and other supplies;
- the impact of COVID-19 on our customers, suppliers, business operations and financial results;
- disrupted or delayed service by the distributors we rely on for the distribution of our wines;
- our ability to successfully execute our growth strategy, including continuing our expansion in the direct-to-consumer sales channel;
- quarterly and seasonal fluctuations in our operating results;
- our ability to protect our trademarks and other intellectual property rights, including our brand and reputation;
- our ability to comply with laws and regulations affecting our business, including those relating to the manufacture, sale and distribution of wine;
- the risks associated with the legislative, judicial, accounting, regulatory, political and economic risks and conditions;
- claims, demands and lawsuits to which we are, and may in the future, be subject and the existence or sufficiency of our insurance or indemnities coverage;
- our ability to operate, update or implement our IT systems;
- our ability to successfully pursue strategic acquisitions and integrate acquired businesses;
- our ability to implement additional finance and accounting systems, procedures and controls in order to satisfy public company reporting requirements;
- the potential liquidity and trading of our securities;
- the future trading prices of our common stock and the impact of securities analysts' reports on these prices;
- our ability to pay accrued dividends to the holders of our Series A Convertible Preferred Stock; and
- any statements of the plans, strategies and objectives of management for future operations, including the execution of integration plans and the anticipated timing of filings.

In addition, statements that "we believe" and similar statements reflect our beliefs and opinions on the relevant subject. These statements are based on information available to us as of the date of this report. Although we believe that information provides a reasonable basis for these statements, that information may be limited or incomplete. Our statements should not be read to indicate that we have conducted an exhaustive inquiry into, or review of, all relevant information. These statements are inherently uncertain, and investors are cautioned not to unduly rely on these statements.

PART I - FINANCIAL INFORMATION

Item 1. Financial Statements

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FRESH VINE WINE, INC.
BALANCE SHEETS

		June 30, 2024 (Unaudited)		December 31, 2023
Assets				
Current assets				
Cash	$	144,756	$	236,340
Restricted cash		50,039		100,000
Accounts receivable		37,513		172,101
Inventories		101,451		337,873
Prepaid expenses		22,917		42,943
Total current assets		356,676		889,257
Equity investment		500,000		500,000
Total assets	$	856,676	$	1,389,257
Liabilities, and stockholders' deficit				
Current liabilities				
Accounts payable	$	1,112,826	$	509,337
Settlement payable		585,976		585,976
Accrued expenses		1,014,541		810,723
Accrued expenses - related parties		309,333		309,333
Deferred revenue		3,268		3,407
Total current liabilities		3,025,944		2,218,776
Total liabilities		3,025,944		2,218,776
Stockholders' deficit				
Preferred stock, $0.001 par value - 25,000,000 shares authorized				
Series A preferred stock, 10,000 shares issued and outstanding at June 30, 2024 and December 31, 2023		10		10
Series B preferred stock, 9,135 and 0 shares issued and outstanding at June 30, 2024 and December 31, 2023, respectively		9		-
Common stock, $0.001 par value - 100,000,000 shares authorized at June 30, 2024 and December 31, 2023; 15,976,227 shares issued and outstanding at June 30, 2024 and December 31, 2023		15,976		15,976
Additional paid-in capital		26,439,514		25,631,255
Accumulated deficit		(28,624,777)		(26,476,760)
Total stockholders' deficit		(2,169,268)		(829,519)
Total liabilities and stockholders' deficit	$	856,676	$	1,389,257

See accompanying notes to the financial statements.

FRESH VINE WINE, INC.
STATEMENTS OF OPERATIONS
(Unaudited)

	Three months ended June 30,		Six months ended June 30,	
	2024	**2023**	**2024**	**2023**
Wholesale revenue	$ 3,668	$ 159,232	$ 32,160	$ 447,606
Direct to consumer revenue	66,816	170,893	142,892	291,149
Total net revenue	70,484	330,125	175,052	738,755
Cost of revenues	114,160	2,329,655	329,976	2,741,647
Gross profit (loss)	(43,676)	(1,999,530)	(154,924)	(2,002,892)
Selling, general and administrative expenses	834,267	1,970,380	1,933,748	3,643,145
Equity-based compensation	1,626	452,427	3,251	788,350
Operating loss	(879,569)	(4,422,337)	(2,091,923)	(6,434,387)
Other income	-	40	39	1,266
Net loss	(879,569)	(4,422,297)	(2,091,884)	(6,433,121)
Preferred dividends – Series A	26,133	-	56,133	-
Net loss attributable to common stockholders	$ (905,702)	$ (4,422,297)	$ (2,148,017)	$ (6,433,121)
Weighted average shares outstanding				
Basic	15,976,227	16,606,442	15,976,227	14,983,854
Diluted	15,976,227	16,606,442	15,976,227	14,983,854
Net loss per share – basic	$ (0.06)	$ (0.27)	$ (0.13)	$ (0.43)
Net loss per share – diluted	$ (0.06)	$ (0.27)	$ (0.13)	$ (0.43)

See accompanying notes to the financial statements.

FRESH VINE WINE, INC.
STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY (DEFICIT)
For the Three and Six Month Periods Ended June 30, 2024 and 2023
(Unaudited)

	Preferred Stock Series A		Preferred Stock Series B		Common Stock		Additional Paid-In Capital	Accumulated Deficit	Total
	Shares	Amount	Shares	Amount	Shares	Amount			
Balance, December 31, 2022	-	$ -	-	$ -	12,732,257	$ 12,732	$ 21,420,732	$ (15,819,858)	$ (5,613,606)
Rights offering – common stock and warrants issued	-	-	-	-	3,143,969	3,144	2,543,584	-	2,546,728
Equity-based compensation	-	-	-	-	500,000	500	257,172	-	257,672
Stock forfeiture	-	-	-	-	(500,000)	(500)	500	-	-
Net loss	-	-	-	-	-	-	-	(2,010,824)	(2,010,824)
Balance, March 31, 2023	-	-	-	-	15,876,226	15,876	24,221,988	(17,830,682)	6,407,182
Equity-based compensation					1,141,332	1,141	373,037	-	374,178
Net loss	-	-	-	-	-	-	-	(4,422,297)	(4,422,297)
Balance, June 30, 2023	-	$ -	-	$ -	17,017,558	$ 17,017	$ 24,595,025	$ (22,252,979)	$ 2,359,063

	Preferred Stock Series A		Preferred Stock Series B		Common Stock		Additional Paid-In Capital	Accumulated Deficit	Total
	Shares	Amount	Shares	Amount	Shares	Amount			
Balance, December 31, 2023	10,000	$ 10	-	$ -	15,976,227	$ 15,976	$ 25,631,255	$ (26,476,760)	$ (829,519)
Issuance of Series B preferred stock	-	-	940	1	-	-	90,324	-	90,325
Accrued preferred dividends, Series A (12%/share)	-	-	-	-	-	-	-	(30,000)	(30,000)
Equity-based compensation	-	-	-	-	-		1,625	-	1,625
Net loss	-	-	-	-	-	-	-	(1,212,315)	(1,212,315)
Balance, March 31, 2024	10,000	10	940	1	15,976,227	15,976	25,723,204	(27,719,075)	(1,979,884)
Issuance of Series B preferred stock	-	-	8,195	8	-	-	714,684	-	714,692
Accrued preferred dividends, Series A (12%/share)	-	-	-	-	-	-	-	(26,133)	(26,133)
Equity-based compensation	-	-	-	-	-	-	1,626	-	1,626
Net loss	-	-	-	-	-	-	-	(879,569)	(879,569)
Balance, June 30, 2024	10,000	$ 10	9,135	$ 9	15,976,227	$ 15,976	$ 26,439,514	$ (28,624,777)	$ (2,169,268)

See accompanying notes to the financial statements.

FRESH VINE WINE, INC.
STATEMENTS OF CASH FLOWS
(Unaudited)

	Six Months Ended June 30, 2024	Six Months Ended June 30, 2023
Cash flows from operating activities		
Net loss	$ (2,091,884)	$ (6,433,121)
Adjustments to reconcile net loss to net cash used in operating activities:		
Equity-based compensation	3,251	788,350
Inventory write-down	154,483	1,732,500
Allowance for doubtful accounts	-	37,733
Changes in operating assets and liabilities		
Accounts receivable	134,588	125,975
Insurance recovery receivable	-	804,907
Inventories	81,939	467,691
Prepaid expenses and other	20,026	(231,145)
Accounts payable	603,489	84,327
Accrued compensation	-	(420,413)
Settlement payable	-	(1,250,000)
Accrued expenses	147,685	143,287
Accrued expenses - related parties	-	(60,000)
Deferred revenue	(139)	(8,711)
Net cash used in operating activities	(946,562)	(4,218,620)
Cash flows from financing activities		
Proceeds from note payable	15,000	-
Proceeds from issuance of Series B preferred stock - net of issuance costs	805,017	-
Proceeds from rights offering - net of issuance costs	-	2,615,014
Payments on note payable	(15,000)	
Net cash provided by financing activities	805,017	2,615,014
Net decrease in cash and restricted cash	(141,545)	(1,603,606)
Cash and restricted cash - beginning of period	336,340	2,080,335
Cash and restricted cash - end of period	$ 194,795	$ 476,729
Supplemental disclosure of non-cash investing and financing activities		
Accrued Series A dividends	$ 56,133	$ -

See accompanying notes to the financial statements.

FRESH VINE WINE, INC.
Notes to Financial Statements
(Unaudited)

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Nature of Business

Fresh Vine Wine, Inc. (“the Company”, “our”, “we”), a Nevada corporation, is a premium wine brand built to complement consumers’ healthy and active lifestyles. The Company provides a competitively priced premium product that is blended to deliver several important benefits, such as low-cal, low-sugar, low-carb. The Company’s wines are also gluten-free and keto and vegan friendly.

The Company’s revenue is comprised primarily of wholesale and direct to consumer (DTC) sales, and representation and distribution services. Wholesale revenue is generated through sales to distributors located in states throughout the United States of America. DTC revenue is generated from individuals purchasing wine directly from the Company through club membership and the Company’s website.

Basis of Presentation

The Company’s financial statements have been prepared and are presented in accordance with United States generally accepted accounting principles (“U.S. GAAP”). The financial statements include, in the opinion of management, all adjustments, consisting of normal and recurring items, necessary for the fair presentation of the financial statements. In certain instances, amounts reported in prior period financial statements have been reclassified to conform to the current financial statement presentation.

Agreement and Plan of Merger

On January 25, 2024, the Company, FVW Merger Sub, Inc., a Colorado corporation and a wholly-owned subsidiary of the Company (“Merger Sub”), and Notes, Live, Inc., a Colorado corporation (“Notes Live”), entered into an Agreement and Plan of Merger (the “Merger Agreement”) pursuant to which, among other things, and subject to the satisfaction or waiver of certain conditions set forth in the Merger Agreement, Merger Sub will merge with and into Notes Live, with Notes Live continuing as a wholly-owned subsidiary of the Company and the surviving corporation of the merger (the “Merger”). On July 31, 2024, the Merger Agreement was terminated. The Company will continue to review other strategic opportunities.

Liquidity, Going Concern, and Management Plan

Historically, the Company has incurred losses, which has resulted in an accumulated deficit of approximately $28.6 million as of June 30, 2024. Cash flows used in operating activities were approximately $947,000 and $4.2 million for the six months ended June 30, 2024 and 2023, respectively. As of June 30, 2024, the Company had an approximately $2.7 million working capital deficit, inclusive of approximately $145,000 in cash and $50,000 in restricted cash. The Company has increased its liquidity by selling inventory at prices below cost, by significantly reducing staffing levels and by the termination of celebrity endorsement contracts.

The Company's ability to continue as a going concern is dependent on its ability to meet its liquidity needs through a combination of factors including but not limited to, cash and cash equivalents, working capital and strategic capital raises. The ultimate success of these plans is not guaranteed.

In considering our forecast for the next twelve months and the current cash and working capital as of the filing of this Form 10-Q, such matters create a substantial doubt regarding the Company's ability to meet their financial needs and continue as a going concern.

The Company received gross proceeds of approximately $914,000 and $1 million from preferred stock offerings during the periods ended June 30, 2024 and December 31, 2023, respectively. The Company will need to seek additional debt or equity financing to sustain existing operations. If adequate financing is not available, the Company will be forced to take measures to severely reduce our expenses and business operations or discontinue them completely. Such financing, if available, may be dilutive. At the current reduced pace of incurring expenses and with receipt of additional financing and the receipt of proceeds from the expected sales of inventory, the Company projects that the existing cash balance will be sufficient to fund current operations into the third quarter of 2024, after which additional financing or capital will be needed to satisfy obligations. Additional financing may not be available on favorable terms or at all. If additional financing is available, it may be highly dilutive to existing shareholders and may otherwise include burdensome or onerous terms. The Company's inability to raise additional working capital in a timely manner would negatively impact the ability to fund operations, generate revenues, maintain or grow the business and otherwise execute the Company's business plan, leading to the reduction or suspension of operations and ultimately potentially ceasing operations altogether and initiating bankruptcy proceedings. Should this occur, the value of any investment in the Company's securities would be adversely affected.

These factors raise substantial doubt about the Company's ability to continue as a going concern. The financial statements do not include any adjustments relating to the recoverability and classification of recorded asset amounts or the amounts and classification of liabilities that might be necessary should the Company be unable to continue as a going concern.

Accounting Estimates

Management uses estimates and assumptions in preparing these financial statements in accordance with U.S. GAAP. Those estimates and assumptions affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities, and the reported revenues and expenses. Actual results could differ from those estimates. Significant items subject to such estimates and assumptions include allowance for doubtful accounts, allowance for inventory obsolescence, equity-based compensation for employees and non-employees, and the valuation of deferred tax assets.

Cash

The Company maintains its accounts at two financial institutions. At times throughout the year, the Company's cash balances may exceed amounts insured by the Federal Deposit Insurance Corporation. The Company has not experienced any losses in such accounts and believes it is not exposed to any significant credit risk.

Restricted Cash

Included in the cash balance is a balance of approximately $50,000 and $100,000 as of June 30, 2024 and December 31, 2023, respectively, that the Company's operating bank has required us to maintain as a security for collectability of automated clearing house transactions. These funds are held in a separate account and are not available for disbursements.

Accounts Receivable

Accounts receivable consists of amounts owed to the Company for sales of the Company's products on credit and are reported at net realizable value. Credit terms are extended to customers in the normal course of business. The Company performs ongoing credit evaluations of its customers' financial conditions. The Company estimates allowances for future returns and doubtful accounts based upon historical experience and its evaluation of the current status of receivables. Accounts considered uncollectible are written off against the allowance. As of June 30, 2024 and December 31, 2023 there was no allowance for doubtful accounts.

Inventories

Inventories primarily include bottled wine which is carried at the lower of cost (calculated using the average cost method) or net realizable value.

The Company reduces the carrying value of inventories that are obsolete or for which market conditions indicate cost will not be recovered to estimated net realizable value. The Company's estimate of net realizable value is based on analysis and assumptions including, but not limited to, historical experience, future demand, and market requirements. Reductions to the carrying value of inventories are recorded in cost of revenues. As of June 30, 2024 and December 31, 2023, the Company had recorded an inventory allowance of approximately $154,000 and $112,000, respectively.

Investment in Equity Securities

The Company has elected the measurement alternative for non-marketable equity securities under ASC 321 Investments – Equity Securities. In accordance with ASC 321, the non-marketable equity securities are initially measured at cost and reviewed at year end for impairment and fair value changes. As of June 30, 2024, there were no changes recorded for the value of the investment since the initial measurement.

Revenue recognition

The Company's total revenue reflects the sale of wine domestically in the U.S. to wholesale distributors or DTC customers. Under ASC Topic 606, *Revenue from Contracts with Customers* ("ASC 606"), the Company recognizes revenue when control of the promised good is transferred to the customer in an amount that reflects the consideration for which the Company is expected to be entitled to receive in exchange for those products. Each contract includes a single performance obligation to transfer control of the product to the customer. Control is transferred when the product is either shipped or delivered, depending on the shipping terms, at which point the Company recognizes the transaction price for the product as revenue. The Company has elected to account for shipping and handling as a fulfillment activity, with amounts billed to customers for shipping and handling included in total revenue.

The Company also generates revenue through membership in its wine club. Wine club members pay a monthly fee, which varies depending on level of membership, and are entitled to receive quarterly shipments of wine, free shipping, and discounts on other wine and merchandise purchased. The Company recognizes revenue for the monthly membership dues when the product is delivered. Any membership dues received before the product is delivered is recorded as deferred revenue on the Company's balance sheet.

ASC 606 notes that when another party is involved in providing goods or services to a customer, the entity should determine whether the nature of its promise is a performance obligation to provide the specified goods or services itself (that is, the entity is a principal) or to arrange for those goods or services to be provided by the other party (that is, the entity is an agent). The Company does not bear responsibility for inventory losses and does not have pricing determination; therefore, the Company would be considered the agent and revenue should be recognized as net sales.

Products are sold for cash or on credit terms. Credit terms are established in accordance with local and industry practices, and typically require payment within 30-60 days of delivery or shipment, as dictated by the terms of each agreement. The Company has elected the practical expedient to not account for significant financing components as its payment terms are less than one year, and the Company determines the terms at contract inception. The Company's sales terms do not allow for the right of return.

The following table presents the percentages of total revenue disaggregated by sales channels for the three and six months ended June 30, 2024 and 2023:

	Three months ended		**Six months ended**	
	June 30, 2024	**June 30, 2023**	**June 30, 2024**	**June 30, 2023**
Wholesale	5.2%	48.2%	18.4%	60.6%
Direct to consumer	94.8%	51.8%	81.6%	39.4%
Total revenue	100.0%	100.0%	100.0%	100.0%

Fair Value of Financial Instruments

The Company's accounting for fair value measurements of assets and liabilities that are recognized or disclosed at fair value in the financial statements on a recurring or nonrecurring basis adheres to the Financial Accounting Standards Board (FASB) fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1 measurements) and the lowest priority to measurements involving significant unobservable inputs (Level 3 measurements). The three levels of the fair value hierarchy are as follows:

- Level 1 Inputs: Unadjusted quoted prices in active markets for identical assets or liabilities accessible to the Company at the measurement date.
- Level 2 Inputs: Other than quoted prices included in Level 1 inputs that are observable for the asset or liability, either directly or indirectly, for substantially the full term of the asset or liability.
- Level 3 Inputs: Unobservable inputs for the asset or liability used to measure fair value to the extent that observable inputs are not available, thereby allowing for situations in which there is little, if any, market activity for the asset or liability at measurement date.

The level in the fair value hierarchy within which a fair measurement in its entirety falls is based on the lowest level input that is significant to the fair value measurement in its entirety.

The carrying values of cash, accounts receivable, accounts payable, deferred revenue and other financial working capital items approximate fair value at June 30, 2024 and December 31, 2023, due to the short maturity nature of these items.

Income Taxes

The Company recognizes uncertain tax positions in accordance with ASC 740 on the basis of evaluating whether it is more likely than not that the tax positions will be sustained upon examination by tax authorities. For those tax positions that meet the more-likely-than not recognition threshold, the Company recognizes the largest amount of tax benefit that is more than 50 percent likely to be realized upon ultimate settlement. The Company recognizes interest and/or penalties related to uncertain tax positions in income tax expense. There were no uncertain tax positions as of June 30, 2024 or December 31, 2023, and as such, no interest or penalties were recorded to income tax expense. As of June 30, 2024 and December 31, 2023, the Company has no unrecognized tax benefits. There are no unrecognized tax benefits included on the balance sheet that would, if recognized, impact the effective tax rate. The Company does not anticipate there will be a significant change in unrecognized tax benefits within the next 12 months.

Equity-Based Compensation

The Company measures equity-based compensation cost at the grant date based on the fair value of the award and recognizes the compensation expense over the requisite service period, which is generally the vesting period. The Company recognizes any forfeitures as they occur.

The Company measures equity-based compensation when the service inception date precedes the grant date based on the fair value of the award as an accrual of equity-based compensation and adjusts the cost to fair value at each reporting date prior to the grant date. In the period in which the grant occurs, the cumulative compensation cost is adjusted to the fair value at the date of the grant.

See Note 8 for further discussion of equity-based compensation incurred in 2024 and 2023.

Advertising

The Company expenses the costs of advertising as incurred. Advertising expenses were approximately $182,000 and $562,000 for the three months ended June 30, 2024 and 2023, respectively and was approximately $327,000 and $1.2 million for the six months ended June 30, 2024 and 2023, respectively.

Application of New or Revised Accounting Standards

Pursuant to the Jumpstart Our Business Startups Act of 2012 (the “JOBS Act”), a company constituting an “emerging growth company” is, among other things, entitled to rely upon certain reduced reporting requirements and is eligible to take advantage of an extended transition period to comply with new or revised accounting standards applicable to public companies.

The Company is an emerging growth company and has elected to use this extended transition period for complying with new or revised accounting standards that have different effective dates for public and private companies until the earlier of the date that the Company (i) is no longer an emerging growth company or (ii) affirmatively and irrevocable opts out of the extended transition period provide in the JOBS Act.

NYSE Listing Requirements

On September 8, 2023, the Company received a written notice (the “Notice”) from NYSE American stating that it was not in compliance with Section 1003(a)(ii) of the NYSE American Company Guide (the “Company Guide”), which requires a listed company that has reported losses from continuing operations and/or net losses in three of its four most recent fiscal years to maintain at least $4 million of stockholders’ equity. The Company reported stockholders’ deficit of approximately $2.2 million as of June 30, 2024 and have had losses from continuing operations and/or net losses in each of the fiscal years ended December 31, 2020, 2021, 2022 and 2023. As required by the NYSE American, the Company submitted a plan to the NYSE American on October 9, 2023 addressing actions it has taken and how it intends to regain compliance with the continued listing standards within the required 18 month period ending March 8, 2025.

On November 21, 2023, the Company received notification (the "Acceptance Letter") from NYSE American that the Company's plan to regain compliance with NYSE American's listing standards was accepted. The Acceptance Letter also stated that the Company is not in compliance with Section 1003(a)(i) of the Company Guide, which requires an issuer to have stockholders' equity of $2.0 million or more if it has reported losses from continuing operations and/or net losses in two out of its three most recent fiscal years. NYSE American has granted the Company a plan period through March 8, 2025 to regain compliance with Sections 1003(a)(i) and (ii) of the Company Guide. If the Company is not in compliance with all continued listing standards by that date or if the Company does not make progress consistent with the plan during the plan period, the Company will be subject to delisting proceedings.

2. LOSS PER SHARE

Basic net loss per share is determined by dividing net loss attributable to common shareholders by the weighted-average shares outstanding during the period. Diluted EPS reflects potential dilution and is computed by dividing net loss by the weighted average number of common shares outstanding during the period increased by the numbers of additional common shares that would have been outstanding if all potential common shares had been issued and were dilutive. However, potentially dilutive securities are excluded from the computation of diluted EPS to the extent that their effect is anti-dilutive. The following table shows the components of diluted shares for the periods ending:

	Three Months Ended		Six Months Ended	
	June 30, 2024	June 30, 2023	June 30, 2024	June 30, 2023
Numerator:				
Net loss	$ (879,569)	$ (4,422,297)	$ (2,091,884)	$ (6,433,121)
Less: dividends on Series A preferred stock	26,133	-	56,133	-
Net loss attributable to common stockholders	$ (905,702)	$ (4,422,297)	$ (2,148,017)	$ (6,433,121)
Denominator:				
Basic – weighted shares outstanding	15,976,227	16,606,442	15,976,227	14,983,854
Dilutive effect from shares authorized	-	-	-	-
Diluted – weighted shares outstanding	15,976,227	16,606,442	15,976,227	14,983,854
Basic loss per share	$ (0.06)	$ (0.27)	$ (0.13)	$ (0.43)
Diluted loss per share	$ (0.06)	$ (0.27)	$ (0.13)	$ (0.43)

At June 30, 2024 and 2023, 17,058,862 and 4,826,446 shares have been excluded from the calculation of diluted weighted average shares outstanding as the inclusion of these shares would have an anti-dilutive effect.

3. INVENTORIES

Inventory is primarily bottled wine which is carried at the lower cost (calculated using the average cost method) or net realizable value. The Company recorded a write down of inventory of approximately $44,000 and $0 for the three months ended June 30, 2024 and 2023, respectively and approximately $110,000 and $1.7 million for the six months ended June 30, 2024 and 2023, respectively. This write down was recorded in cost of revenue in the financial statements. The finished goods inventory was $101,451 and $337,873 as of June 30, 2024 and December 31, 2023, respectively. This inventory included a valuation reserve of $154,000 and $112,000 as of June 30, 2024 and December 31, 2023, respectively.

4. PREPAID EXPENSES

Prepaid expenses consist of the following at:

	June 30, 2024	December 31, 2023
Prepaid marketing expenses - current	$ -	$ 9,871
Prepaid insurance	22,917	33,072
Total	$ 22,917	$ 42,943

5. INVESTMENTS

In connection with the Plan of Merger in December 2023 (as described in Note 1), the Company made a $500,000 investment for 50,000 shares of Notes Live, Inc. The investment was initially measured at cost. The Company noted no impairment or fair value change as of June 30, 2024.

6. ACCRUED EXPENSES

Accrued expenses consist of the following at:

	June 30, 2024	December 31, 2023
Sponsorship agreements	$ 832,660	$ 608,818
Accrued credit card charges	3,569	7,275
Series A Stock dividends	98,000	41,867
Legal and professional	48,418	125,704
Other accrued expenses	31,894	27,059
Total	$ 1,014,541	$ 810,723

The sponsorship agreements related to marketing contracts with unrelated parties within the sports and entertainment industry. The terms of the agreements ranged from two to four years with annual payments ranging from $103,000 to $216,000 per agreement. All sponsorship agreements have terminated as of June 30, 2024. The total expense relating to these agreements for the three months ended June 30, 2024 and 2023, was approximately $172,000 and $124,000, respectively and for the six months ended June 30, 2024 and 2023, was approximately $296,000 and $177,000, respectively.

Accrued credit card charges primarily consist of warehouse, shipping and other operating costs paid via Company credit card as a tool for managing cashflow.

7. STOCKHOLDERS' EQUITY

Rights offering

During the first quarter of 2023, the Company distributed, at no charge to holders of the Company's common stock, non-transferable subscription rights to purchase up to an aggregate of 6,366,129 Units. Each Unit consisted of one share of our common stock and a Warrant to purchase one share of our common stock. The Warrants were exercisable immediately, expire five years from the date of issuance and have an exercise price of $1.25 per share. For each share of common stock held by a stockholder of the Company on February 22, 2023, the record date of the Rights Offering, such stockholder received 0.5 subscription rights. Each whole subscription right allowed the holder thereof to subscribe to purchase one Unit, which the Company refers to as the basic subscription right, at a subscription price of $1.00 per Unit. In addition, any holder of subscription rights exercising his, her or its basic subscription right in full was eligible to subscribe to purchase additional Units that remained unsubscribed in the Rights Offering at the same subscription price per Unit that applied to the basic subscription right, subject to proration among participants exercising their over-subscription privilege, which the Company refers to as the over-subscription privilege. Upon the closing of the Rights Offering, which occurred on March 14, 2023, the Company issued 3,143,969 shares of common stock and 3,143,969 warrants and received aggregate gross cash proceeds of approximately $3.14 million. After deducting dealer-manager fees and other fees and expenses related to the Rights Offering, the Company received net proceeds of approximately $2.6 million. If exercised, additional gross proceeds of up to approximately $3.93 million may be received through the exercise of warrants issued in the Rights Offering.

Series A Convertible Preferred Stock

On July 27, 2023, the Company filed with the Secretary of State of the State of Nevada a Certificate of Designation of Preferences, Rights and Limitations of Series A Convertible Preferred Stock, par value $0.001 per share (the "Series A Stock"), which was amended on August 1, 2023 prior to the issuance of any shares of Series A Stock by filing Amendment No. 1 thereto (as so amended, the "Certificate"). The Certificate designates 10,000 shares of the Company's undesignated preferred stock as Series A Stock and establishes the rights and preferences of Series A Stock.

On August 2, 2023, the Company entered into a Securities Purchase Agreement with two accredited investors (the "Purchasers") pursuant to which the Company agreed to issue and sell in a private placement (the "Offering") shares of Series A Stock.

Pursuant to the Securities Purchase Agreement, the Purchasers collectively agreed to purchase up to 10,000 shares of Series A Stock at a per share purchase price equal to $100.00 (the "Stated Value"), for total gross proceeds of up to $1.0 million. The Purchasers agreed to purchase 4,000 shares of Series A Stock for an aggregate purchase price of $400,000 at an initial closing of the Offering (the "Initial Closing"), which occurred on August 2, 2023. The Securities Purchase Agreement provided that the Company will issue and sell to the Purchasers, and the Purchasers will purchase, an additional 4,000 shares of Series A Stock at a second closing (the "Second Closing"), which occurred on September 7, 2023. The Securities Purchase Agreement provided that the Company will issue and sell to the Purchasers, and the Purchasers will purchase, an additional 2,000 shares of Series A Stock at an optional closing (the "Optional Closing"), which occurred on December 1, 2023.

Each share of Series A Stock is convertible, at any time and from time to time from and after the date of the Initial Closing at the option of the holder thereof, into the number of shares of common stock ("Conversion Shares") calculated by dividing the Stated Value by a conversion price (the "Conversion Price") of $0.10. However, if the Company's common stock fails to continue to be listed or quoted for trading on a stock exchange, then the Conversion Price thereafter will mean the lesser of (i) $0.10, or (ii) the closing sale price of the common stock on the trading day immediately preceding the conversion date; provided that the Conversion Price shall not be less than $0.05 (the "Floor Price"). The Conversion Price is subject to standard adjustments based stock splits, stock dividends, stock combinations and the like, and the Floor Price is also subject to anti-dilution adjustments resulting from future offerings of common stock (or common stock equivalents) at a price less than the prevailing Conversion Price.

Upon any liquidation, dissolution or winding-up of the Company, whether voluntary or involuntary (a "Liquidation"), the Holders shall (i) first be entitled to receive out of the assets, whether capital or surplus, of the Company an amount equal to 150% times the Stated Value for each share of Series A Stock before any distribution or payment shall be made to the holders of any junior securities and (ii) then be entitled to participate in the distribution of remaining assets with the holders of common stock on an as-if-converted to common stock basis (disregarding for such purposes any conversion limitations).

The Company may redeem (i) up to 75% of the issued and outstanding shares of Series A Stock for a price per share equal to 150% of the Stated Value thereof if such redemption occurs within six months from the date of issuance, and (ii) up to 50% of the issued and outstanding shares of Series A Stock for a price per share equal to 200% of the Stated Value thereof if such redemption occurs after six months but before the expiration of twelve months from the date of issuance.

Each holder of a share of Series A Stock is entitled to receive dividends payable, subject to certain conditions, in cash or shares of common stock ("Dividend Shares") valued as either (i) the then applicable Conversion Price, or (ii) 50% of the then current market price of the Company's common stock, at the dividend rate of 12% per annum. Dividends are cumulative and will be payable on July 31st of each year. However, the Company may not pay dividends by issuing Dividend Shares if and to the extent that the issuance of such Dividend Shares, when added to all Conversion Shares previously issued upon prior conversions of Series A Stock and previously issued Dividend Shares (if any), would exceed the Exchange Share Cap or result in a Series A Stock holder beneficially owning shares of common stock in excess of the Individual Holder Share Cap, in each case unless the Company obtains stockholder approval for such issuances.

The shares of Series A Stock will vote with the common stock as a single class on all matters submitted to a vote of stockholders of the Company other than any proposal to approve the issuance of shares of common stock in excess of the Exchange Share Cap or the Individual Holder Share Cap. The Preferred Shares will vote on an as-converted to common stock basis, taking into account the conversion limitations resulting from the Exchange Share Cap and the Individual Holder Share Cap, if and as applicable; however, solely for purposes of determining voting rights, the Conversion Price shall be equal to the most recent closing sale price of the Common Stock as of the execution and delivery of the Securities Purchase Agreement, which was $0.47.

There was no issuance activity of the Series A Stock for the three or six months ended June 30, 2024 and 2023.

The Series A Stock meets the requirements for permanent equity classification as prescribed by the authoritative guidance.

The following table summarizes accrued dividends that the Company is legally obligated to pay:

	June 30, 2024	December 31, 2023
Series A preferred stock	$ 98,000	$ 41,867

Series B Convertible Preferred Stock

On March 14, 2024, the Company filed with the Secretary of State of the State of Nevada a Certificate of Designation of Preferences, Rights and Limitations of Series B Convertible Preferred Stock, par value $0.001 per share (the "Series B Stock"). The Certificate designates 50,000 shares of the Company's undesignated preferred stock as Series B Stock and establishes the rights and preferences of Series B Stock.

As of June 30, 2024, the Company entered into multiple Securities Purchase Agreements with accredited investors (the "Purchasers") pursuant to which the Company agreed to issue and sell in a private placement (the "Series B Offering") shares of Series B Stock.

Pursuant to the Securities Purchase Agreement, each share of Series B Stock will have a stated value equal to $100.00 (the "Stated Value"). As of June 30, 2024, 9,135 shares of Series B Stock had been sold for a total in gross proceeds of $913,500.

Each share of Series B Stock shall be convertible at the option of the holder thereof into the number of shares common stock ("Conversion Shares") calculated by dividing the Stated Value by the Conversion Price (the "Conversion Ratio")(subject to the limitations described below). For such purposes, the "Conversion Price" means $0.45. However, if the Company's common stock fails to continue to be listed or quoted for trading on a stock exchange (currently, the NYSE American), then the "Conversion Price" thereafter will mean the lesser of (i) $0.45, or (ii) the closing sale price of the common stock on the trading day immediately preceding the conversion date; provided that the Conversion Price shall not be less than $0.05 (the "Floor Price"). The Conversion Price is subject to standard adjustments based stock splits, stock dividends, stock combinations and the like, and the Floor Price is also subject to anti-dilution adjustments resulting from future offerings of common stock (or common stock equivalents) at a price less than the prevailing Floor Price.

Except for stock dividends or distributions for which adjustments are to be made pursuant to antidilution provisions of the Certificate, holders of Series B Stock shall be entitled to receive dividends on shares of Series B Stock equal (on an as-if-converted-to-Common-Stock basis) to and in the same form as dividends actually paid on shares of the Common Stock when, as and if such dividends are paid on shares of the Common Stock.

The Company may redeem (i) up to 75% of the issued and outstanding Series B Preferred Shares for a price per share equal to 150% of the Stated Value thereof if such redemption occurs within six months from the date of issuance, and (ii) up to 50% of the issued and outstanding Series B Preferred Shares for a price per share equal to 200% of the Stated Value thereof if such redemption occurs after six months but before the expiration of twelve months from the date of issuance.

The Series B Stock will vote with the common stock and the Series A Convertible Preferred Stock as a single class on all matters submitted to a vote of stockholders of the Company other than any proposal to approve the issuance of shares of common stock upon the conversion of Series B Stock in excess of the Exchange Share Cap or the Individual Holder Share Cap. The shares of Series B Stock will vote on an as-converted to common stock basis, taking into account the conversion limitations resulting from the Exchange Share Cap and the Individual Holder Share Cap, if and as applicable; however, solely for purposes of determining voting rights, the Conversion Price with respect to each share of Series B Stock shall be equal to the most recent closing sale price of the Common Stock as of the execution and delivery of the securities purchase agreement or other subscription or similar agreement pursuant to which such share of Series B Stock was issued by the Company.

The Company previously engaged The Oak Ridge Financial Services Group, Inc. to serve as a financial advisor to the Company in connection with capital raising activities. In connection with the Series B Offering, the Company has agreed to pay the Oak Ridge a cash fee equal to 8.0% of the gross proceeds received by the Company in the Offering, in addition to reimbursing Oak Ridge for its out-of-pocket expenses. In addition, the Company issued to Oak Ridge (or its designee) seven-year warrants to purchase up to a total of 300,000 shares of the Company's common stock at an exercise price equal to $0.50 per share.

The issuance activity of the Series B Stock is summarized below:

	Three months ended June 30,		Six months ended June 30,	
	2024	**2023**	**2024**	**2023**
Series B preferred stock shares issued	8,195	-	9,135	-
Net proceeds	$ 715,402	$ -	$ 805,726	$ -

The Series B Stock meets the requirements for permanent equity classification as prescribed by the authoritative guidance.

Third Party Vendor Engagements and Related Founder Share Forfeitures

In December 2022, Rick Nechio and Damian Novak, two of the Company's founders, together agreed to forfeit and transfer back to the Company without consideration a total of 970,000 shares of common stock of the Company held by them, to enable the Company to preserve cash by issuing such number of shares to certain of the Company's service providing vendors without subjecting the Company's other stockholders to dilution therefrom. Also in December 2022, the Company entered into agreements to issue 970,000 shares to such vendors in transactions exempt from the registration requirements of the Securities Act of 1933, as amended (the "Securities Act"). Recipients of the shares included our third-party sales and distribution management service provider, as well as certain advertising, public relations, consulting, and legal service providers. Pursuant to agreements with certain of these vendors, the Company has agreed to issue up to an additional 1,030,000 shares of common stock upon the Company achieving specified revenue-related performance objectives within identified timeframes. Equity-based compensation expense related to the additional shares subject to revenue-related performance objectives was not material to the 2024 or 2023 financial statements.

8. EQUITY-BASED COMPENSATION

<u>Shares of Restricted Stock</u>

In April 2023, the members of the Company's Board of Directors, collectively, were granted a total of 100,000 shares of restricted stock. The vesting period is as follows: 25,000 shares vested immediately with 25,000 shares vesting each quarter following the award date.

Total equity-based compensation expense related to shares of restricted stock issuances was $0 and $304,558 for the three months ended June 30, 2024 and 2023, respectively and $0 and $493,058 for the six months ended June 30, 2024 and 2023, respectively.

Restricted stock activity as of and for the six-month period ended June 30, 2024 was as follows:

	Number of Shares of Restricted Stock	Weighted Average Remaining Contractual Term (Years)
Outstanding at December 31, 2023	20,000	0.00
Granted	-	-
Vested or released	(20,000)	-
Forfeited	-	-
Outstanding at June 30, 2024	-	-

Vendor Stock Awards

Vendor stock award activity subject to revenue-related performance objectives during the six months ended June 30, 2024 was as follows:

	Number of Shares of Vendor Stock Awards	Weighted Average Remaining Vesting Term (Years)
Outstanding at December 31, 2023	1,030,000	1.25
Granted	-	-
Vested or released	-	-
Forfeited	-	-
Outstanding at June 30, 2024	1,030,000	0.71

Stock Options

Stock option activity for six-month period ended June 30, 2024 was as follows:

	Number of Options	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term (Years)
Outstanding at December 31, 2023	446,559	$ 8.88	8.08
Granted	-	-	-
Exercised	-	-	-
Forfeited	-	-	-
Outstanding at June 30, 2024	446,559	$ 8.88	7.58
Exercisable at June 30, 2024	71,559	$ 3.03	8.17

Equity-based compensation expense totaling $1,626 and $85,119 has been recognized relating to these stock options during the three months ended June 30, 2024 and 2023, respectively and $3,252 and $138,791 for the six months ended June 30, 2024 and 2023, respectively. The total unrecognized equity-based compensation expense was $3,007 as of June 30, 2024.

Warrants

As disclosed in Note 7, 3,143,969 warrants were granted as part of the Rights Offering in March 2023. Also noted in Note 7, 300,000 warrants were granted in March 2024 to our financial advisor and placement agent in connection with our offering and sale of Series B Preferred Stock.

Warrant activity for six-month period ended June 30, 2024 was as follows:

	Number of Warrants		Weighted Average Exercise Price	Weighted Average Remaining Contractual Term (Years)
Outstanding at December 31, 2023	3,553,969	$	1.61	4.16
Granted	300,000		0.50	7.00
Vested or released	-		-	-
Forfeited	-		-	-
Outstanding at June 30, 2024	3,553,969	$	1.52	3.92

The Company uses the Black-Scholes option-pricing model to estimate the fair value of equity-based awards. The inputs for the Black-Scholes valuation model require management's significant assumptions. Prior to the Company's IPO, the price per share of common stock was determined by the Company's board based on recent prices of common stock sold in private offerings. Subsequent to the IPO, the price per share of common stock is determined by using the closing market price on the New York Stock Exchange on the grant date. The risk-free interest rate is based on the rate for U.S. Treasury securities at the date of grant with maturity dates approximately equal to the expected life at the grant date. The expected term for employee and non-employee awards ranged from 5 to 10 years based on industry data, vesting period, contractual period, among other factors. The expected volatility was estimated at 75% based on historical volatility information of peer companies that are publicly available in combination with the Company's calculated volatility since being publicly traded. The Company does not expect to pay dividends. For awards with a performance condition, stock compensation is recognized over the requisite service period if it is probable that the performance condition will be satisfied.

9. INCOME TAXES

The Company has federal and state net operating loss carryforwards with a full valuation allowance against the deferred tax assets as of June 30, 2024. No income tax expense or benefit was recorded for the three and six months ended June 30, 2024 and 2023 due to the Company's net loss position.

10. SUPPLIER AND CUSTOMER CONCENTRATION

The Company has an agreement with an unrelated party for various wine making activities, including production, bottling, labelling, and packaging. The Company pays certain storage, administrative fees and taxes related to the purchased goods. There is no specified term of the agreement but continues as additional blanket sales orders are issued. For the six month periods ended June 30, 2024 and 2023, substantially all of the Company's inventory purchases were from this supplier.

The Company also engages with other suppliers for the purchase of a select varietal of wine to be offered in limited quantities. There are no formal agreements due to the infrequency of activity with these suppliers.

A significant portion of the Company's wholesale revenue in 2024 comes from three national distributor customers that operate in several markets. For the six month period ended June 30, 2024, approximately 85% of the Company's wholesale revenue came from these customers as well as one additional customer. At June 30, 2024, these customers accounted for 66% of accounts receivable. For the first six months of 2023, the Company's wholesale revenue came from only two national distributors that attributed to 71% of the Company's wholesale revenue. These customers accounted for 50% of the Company's accounts receivable as of June 30, 2023.

11. COMMITMENTS AND CONTINGENCIES

License agreements

During March 2021, the Company entered into two license agreements with certain equity investors for marketing and advertising services. These two agreements were terminated during the third quarter of 2023 and the remaining prepaid license fee was expensed. The net expense relating to the agreements was $0 and $120,000 for the three months ended June 30, 2024 and 2023, respectively and $0 and $240,000 for the six months ended June 30, 2024 and 2023, respectively. The Company had accrued approximately $309,000 for these license agreements as of June 30, 2024 and December 31, 2023.

12. LEGAL PROCEEDINGS

Timothy Michaels

On February 24, 2022, Timothy Michaels, the former Chief Operating Officer of the Company, signed a Separation Agreement and Release (the "Separation Agreement") in connection with the termination of his employment with the Company, which occurred on February 7, 2022.

On May 27, 2022, Mr. Michaels filed a complaint against the Company in the Fourth Judicial District Court, Hennepin County, Minnesota, alleging that the Company breached the February 24, 2022 Separation Agreement by including a restricted "lock-up" legend on shares of the Company's common stock issued to Mr. Michaels pursuant to the Settlement Agreement. The complaint also included counts alleging breach of the implied covenant of good faith and fair dealing, issuer liability under Minn. Stat. § 336.8-401 for delay in removing or directing the Company's transfer agent to remove the lock-up legend from the shares, conversion and civil theft.

The Company made a motion seeking dismissal of the conversion and civil theft counts, which was granted by the Fourth Judicial District Court, Hennepin County, Minnesota on October 31, 2022. On August 9, 2023, the Company moved for summary judgment on Mr. Michaels' remaining claims. A jury trial commenced on January 23, 2024. During trial, on January 24, 2024, the Company filed a motion for judgement in favor of the Company as a matter of law, which was denied by the Court. On January 25, 2024, the jury in the lawsuit rendered a verdict against the Company awarding damages to Mr. Michaels in the amount of $585,976.25, which is included in settlement payable in the accompanying balance sheet. On February 22, 2024, the Company filed a renewed motion for post-verdict judgment in favor of the Company as a matter of law. On February 26, 2024, the Judge in the lawsuit denied the renewed motion for post-verdict judgment. On March 25, 2024, Mr. Michaels filed a Notice and Application for Taxation of Costs and Disbursements. On March 26, 2024, the Company filed its Notice of Appeal. On March 26, 2024, Mr. Michaels served a motion for Pre-verdict and Prejudgment Interest. On March 27, 2024, a Notice of Entry of Judgment was filed and, on March 28, 2024, a Notice of Docketing of Judgment was entered.

Website-related Plaintiff's Lawsuit

On January 26, 2024, the Company was served with a complaint filed in the United States District Court for the Southern District of New York alleging that the Company has failed to design, construct, maintain and operate its Internet website to be fully accessible to and independently usable by blind or visually-impaired persons, thereby denying blind and visually-impaired persons with equal access to the Company's goods and services in violation of the Title III of the Americans with Disabilities Act of 1990 and the New York Human Rights Law, the New York Civil Rights Law. On February 16, 2024, the Company filed an Answer to the complaint denying the plaintiff's allegations and asserting affirmative defenses thereto. On May 29, 2024, the Company entered into a settlement agreement pursuant to which the Company made a settlement payment and agreed to remediate its website within a stipulated time period and the plaintiff agreed to dismiss the lawsuit.

13. SUBSEQUENT EVENTS

On July 31, 2024, the Company entered into a Termination Agreement with Notes Live, wherein the parties mutually agreed to terminate the Merger Agreement effective immediately upon execution of the Termination Agreement. No termination fees are payable by either party in connection with the termination of the Merger Agreement.

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

The following discussion and analysis of our financial condition and results of operations should be read in conjunction with the financial statements and related notes to those statements as included elsewhere in this Quarterly Report on Form 10-Q. In addition to historical financial information, the following discussion and analysis contains forward-looking statements that involve risks, uncertainties, and assumptions. See "Cautionary Note Regarding Forward-looking Statements" and Part II "Item 1A. Risk Factors, included elsewhere in this Quarterly Report on Form 10-Q. Our actual results may differ materially from those anticipated in these forward-looking statements as a result of many factors, including those discussed in Part I "Item 1A. Risk Factors" included in our Annual Report on Form 10-K for the fiscal year ended December 31, 2023, and in our subsequently filed documents with the SEC.

Under this "Management's Discussion and Analysis of Financial Condition and Results of Operations," "we," "us," "our" "Fresh Vine Wine," "Fresh Vine" and the "Company" refer to Fresh Vine Wine, Inc.

Overview

Fresh Vine Wine, Inc. is a producer of low carb, low calorie, premium wines in the United States. Founded in 2019, Fresh Vine brings an innovative "better-for-you" solution to the wine market. We currently sell seven varietals: Cabernet Sauvignon, Pinot Noir, Chardonnay, Sauvignon Blanc, Rosé, Sparkling Rosé, and a limited Reserve Napa Cabernet Sauvignon. All varietals are produced and bottled in Napa, California.

Fresh Vine's wines are distributed across the United States and Puerto Rico through wholesale, retail, and direct-to-consumer (DTC) channels. Fresh Vine is able to conduct wholesale distribution of our wines in all 50 states and Puerto Rico, and it is licensed to sell through DTC channels in 43 states. As of June 30, 2024, Fresh Vine holds active relationships with wholesale distributors in 50 states. Fresh Vine is working with leading distributors, including Southern Glazer's Wine & Spirits (SGWS), Johnson Brothers, and Republic National Distributing Company (RNDC), to expand our presence across the contiguous United States.

Fresh Vine's core wine offerings are priced strategically to appeal to mass markets and sell at a list price between $15 and $25 per bottle. Given the Fresh Vine Wine brand's "better-for-you" appeal, and overall product quality, Fresh Vine believes that it presents today's consumers with a unique value proposition within this price category. Additionally, Fresh Vine Wine is one of very few products available at this price point that includes a named winemaker, Jamey Whetstone.

Fresh Vine's marketing activities focus primarily on consumers in the 21-to-34-year-old demographic with moderate to affluent income and on those with a desire to pursue a healthy and active lifestyle.

Fresh Vine's asset-light operating model allows it to utilize third-party assets, including land and production facilities. This approach helps us mitigate many of the risks associated with agribusiness, such as isolated droughts or fires. Because Fresh Vine sources product inputs from multiple geographically dispersed vendors, it reduces reliance on any one vendor and benefit from broad availability/optionality of product inputs. This is particularly important as a California-based wine producer where droughts or fires can have an extremely detrimental impact to a company's supply chain if not diversified.

Key Financial Metrics

We use net revenue, gross profit (loss) and net income (loss) to evaluate the performance of Fresh Vine. These metrics are useful in helping us to identify trends in our business, prepare financial forecasts and make capital allocation decisions, and assess the comparable health of our business relative to our direct competitors.

	Three months ended June 30,		Six months ended June 30,	
	2024	2023	2024	2023
Net revenue	$ 70,484	$ 330,125	$ 175,052	$ 738,755
Gross loss	$ (43,676)	$ (1,999,530)	$ (154,924)	$ (2,002,892)
Net loss	$ (879,569)	$ (4,422,297)	$ (2,091,884)	$ (6,433,121)

Components of Results of Operations and Trends That May Impact Our Results of Operations

Net revenue

Our net revenue consists primarily of wine sales to distributors and retailers, which together comprise our wholesale channel, and directly to individual consumers through our DTC channel. Net revenues generally represent wine sales and shipping, when applicable, and to a lesser extent branded merchandise and wine club memberships. For wine and merchandise sales, revenues are recognized at time of shipment. For Wine Club memberships, revenues are recognized quarterly at the time of fulfilment.

We refer to the volume of wine we sell in terms of cases. Each case contains 12 standard bottles, in which each bottle has a volume of 750 milliliters. Cases are sold through Wholesale/Retail or DTC channels.

The following factors and trends in our business have driven our net revenue results and are expected to be key drivers of our net revenue for the foreseeable future:

Brand recognition: As we drive visibility through traditional and modern marketing methods, we expect to build awareness and name recognition for Fresh Vine Wine in consumers' minds. Brand awareness will be built substantially through social media channels.

Portfolio evolution: As a relatively new, high-growth brand, we expect and seek to learn from our consumers. We intend to continuously evolve and refine our products to meet our consumers' specific needs and wants, adapting our offering to maximize value for our consumers and stakeholders.

Distribution expansion and acceleration: Purchasing by distributors and loyal accounts that continue to feature our wines are key drivers of net revenue.

Seasonality: In line with industry norms, we anticipate our net revenue peaking during the quarter spanning from October through December due to increased consumer demand around the major holidays. This is particularly true in our DTC revenue channel, where marketing programs will often be aligned with the holiday season and product promotions will be prevalent.

Revenue Channels

Our sales and distribution platform is built upon a highly developed network of distributor accounts. Within this network, we have signed agreements in place with several of the nation's largest distributors including Southern Glazer's Wine & Spirits and RNDC, among others. While we are actively working with these distributors in certain markets, they operate across the United States, and we intend to grow our geographic/market presence through these relationships. The development of these relationships and impacts to our related product mix will impact on our financial results as our channel mix shifts.

- Wholesale channel: Consistent with sales practices in the wine industry, sales to retailers and distributors occur below SRP (Suggested Retail Price). We work closely with distributors to increase wine volumes and the number of products sold by their retail accounts in their respective territories.

- DTC channel: Wines sold through our DTC channels are generally sold at SRP, although we do periodically offer various promotions. Our DTC channel continues to grow as a result of a number of factors, including expanded e-commerce sites and social media capabilities.

Wholesale channel sales made on credit terms generally require payment within 30 days of delivery; however our credit terms with Southern Glazer's Wine & Spirits requires payment within 60 days of delivery. During periods in which our net revenue channel mix reflects a greater concentration of wholesale sales, we typically experience an increase in accounts receivable for the period to reflect the change in sales mix; payment collections in the subsequent period generally reduce our accounts receivable balance and have a positive impact on cash flows.

While we seek to increase revenue across all channels, we expect the majority of our future revenue to be driven through the direct to consumer channel. We intend to maintain and expand relationships with existing distributors and form relationships with new distributors as we work to grow the Company. With multiple varietals within the Fresh Vine Wine portfolio, we consider ourselves to be a 'one-stop shop' for better-for-you wines. We continue to innovate with new products at competitive price points and strive to enhance the experience as we increase revenue with new and existing consumers.

In the DTC channel, our comprehensive approach to consumer engagement in both online and traditional forums is supported by an integrated e-commerce platform. Our marketing efforts target consumers who have an interest in healthy and active lifestyles. We attempt to motivate consumers toward a simple and easy purchasing decision using a combination of defined marketing programs and a modernized technology stack.

Increasing customer engagement is a key driver of our business and results of operations. We continue to invest in our DTC channel and in performance marketing to drive customer engagement. In addition to developing new product offerings and cross-selling wines in our product portfolio, we focus on increasing customer conversion and retention. As we continue to invest in our DTC channel, we expect to increase customer engagement and subsequently deliver greater satisfaction. We also distribute our wines via other wine e-commerce sites such as Wine.com and Vivino.com and plan to continue to add affiliate retail websites.

Net Revenue Percentage by Channel

We calculate net revenue percentage by channel as net revenue made through our wholesale channel to distributors, through our wholesale channel directly to retail accounts, and through our DTC channel, respectively, as a percentage of our total net revenue. We monitor net revenue percentage across revenue channels to understand the effectiveness of our distribution model and to ensure we are employing resources effectively as we engage customers.

	Three months ended June 30,		Six months ended June 30,	
	2024	**2023**	**2024**	**2023**
Wholesale	5.2%	48.2%	18.4%	60.6%
Direct to consumer	94.8%	51.8%	81.6%	39.4%
Total revenue	100.0%	100.0%	100.0%	100.0%

Cost of Revenues

Cost of revenues is comprised of all direct product costs such as juice, bottles, caps, corks, labels, and capsules. Additionally, we also categorize boxes and quality assurance testing within our cost of revenues as well as inventory write downs. Fresh Vine expects that cost of revenues will decrease as net revenue decreases.

Additionally, the Company includes shipping fees in all DTC revenues. These fees are paid by end consumers at time of order and subsequently itemized within the cost of each individual sale.

As a commodity product, the cost of wine fluctuates due to annual harvest yields and the availability of juice. This macroeconomic consideration is not unique to Fresh Vine Wine, although we are conscious of its potential impact to our product cost structure.

Gross Loss

Gross loss is equal to our net revenue less cost of revenues.

Selling, General, and Administrative Expenses

Selling, general, and administrative expenses consist of selling expenses, marketing expenses, and general and administrative expenses. Selling expenses consist primarily of direct selling expenses in our wholesale and DTC channels, including payroll and related costs, product samples, processing fees, and other outside service fees or consulting fees. Marketing expenses consist primarily of advertising costs to promote brand awareness, contract fees incurred as a result of significant sports marketing agreements, customer retention costs, payroll, and related costs. General and administrative expenses consist primarily of payroll and related costs.

Equity-Based Compensation

Equity-based compensation consists of the accounting expense resulting from our issuance of equity or equity-based grants issued in exchange for employee or non-employee services. We measure equity-based compensation cost at the grant date based on the fair value of the award and recognize the compensation expense over the requisite service period, which is generally the vesting period. We recognize any forfeitures as they occur.

Results of Operations

	Three months ended June 30,		Six months ended June 30,	
	2024	**2023**	**2024**	**2023**
Net revenue	$ 70,484	$ 330,125	$ 175,052	$ 738,755
Cost of revenues	114,160	2,329,655	329,976	2,741,647
Gross profit (loss)	(43,676)	(1,999,530)	(154,924)	(2,002,892)
Selling, general and administrative expenses	834,267	1,970,380	1,933,747	3,643,145
Equity-based compensation	1,626	452,427	3,252	788,350
Loss from operations	(879,569)	(4,422,337)	(2,091,923)	(6,434,387)
Other income	-	40	39	1,266
Net loss	$ (879,569)	$ (4,422,297)	$ (2,091,884)	$ (6,433,121)

Comparison of the Three and Six months ended June 30, 2024 and 2023

Net Revenue, Cost of Revenues and Gross Profit

	Three months ended June 30,		Change		Six months ended June 30,		Change	
	2024	2023	$	%	2024	2023	$	%
Net revenue	$ 70,484	$ 330,125	(259,641)	-79%	$ 175,052	$ 738,755	(563,703)	-76%
Cost of revenues	114,160	2,329,655	(2,215,495)	-95%	329,976	2,741,647	(2,411,671)	-88%
Gross loss	$ (43,676)	$ (1,999,530)	1,955,854	-98%	$ (154,924)	$ (2,002,892)	1,847,968	-92%

For the three and six months ended June 30, 2024, net revenue was lower compared to the same periods in 2023 due to business slowing down as the Company worked towards an anticipated merger. Cost of revenues were lower due to net revenue decreasing as well as lower inventory write downs from year to year. Cost of revenues included approximately $1.7 million in inventory write downs for the six months ended June 30, 2023 compared to approximately $110,000 for the six months ended June 30, 2024. Gross loss decreased significantly for both periods in 2024 compared to 2023, which is driven by the overall decrease in net revenue and cost of revenues as the Company focuses on selling the current inventory.

Selling, general and administrative expenses

	Three months ended June 30,		Change		Six months ended June 30,		Change	
	2024	2023	$	%	2024	2023	$	%
Selling expenses	$ 42,917	$ 265,201	(222,284)	-84%	$ 127,289	$ 592,121	(464,832)	-79%
Marketing expenses	181,678	550,492	(368,814)	-67%	326,704	1,160,302	(833,598)	-72%
General and administrative expenses	609,672	1,154,687	(545,015)	-47%	1,479,754	1,890,722	(410,968)	-22%
Total selling, general and administrative expenses	$ 834,267	$ 1,970,380	(1,136,113)	-58%	$ 1,933,747	$ 3,643,145	(1,709,398)	-47%

For the three and six months ended June 30, 2024, selling, general and administrative expenses decreased 58% and 47%, respectively, compared to the three and six months ended June 30, 2023. The decrease related to selling expenses was largely driven by terminations of consultants and contractors in 2024 compared to the same period of 2023, as well as less travel since overall sales have decreased. General and administrative expenses decreased as the workforce decreased as well as general insurance and legal expenses. The decrease in marketing expenses primarily resulted from decreased advertising, social media marketing, tastings, and other promotion materials and events as selling and marketing expenses are directly related to sale trends.

<u>**Cash Flows**</u>

	Six months ended June 30,	
	2024	2023
Cash provided by (used in):		
Operating activities	$ (946,562)	$ (4,218,620)
Investing activities	-	-
Financing activities	805,017	2,615,014
Net (decrease) increase in cash and restricted cash	$ (141,545)	$ (1,603,606)

Net cash used in operating activities was ($946,562) and ($4,218,620) for the six months ended June 30, 2024 and 2023, respectively. Cash used in operating activities decreased in the six months ended June 30, 2024 primarily because of one-time expenses related to the settlement payable and accrued compensation of approximately $1.7 million paid to the former Chief Executive Officer in 2023.

Net cash provided by financing activities was $805,017 and $2,615,014 for the six months ended June 30, 2024 and 2023, respectively. The difference is mostly attributed to the Rights Offering of $2,615,014 in 2023 compared to the Issuance of Preferred Stock of $805,017 in 2024.

Liquidity and Capital Resources

Our primary cash needs are for working capital purposes, such as producing or purchasing inventory and funding operating expenses. We have funded our operations through equity and debt financings, as described under the caption “Financing Transactions” below.

We have incurred losses and negative cash flows from operations since our inception in May 2019, including net losses of approximately $2.1 million and $6.4 million during the six months ended June 30, 2024 and 2023, respectively. As of June 30, 2024, we had an accumulated deficit of approximately $28.6 million and a total stockholders’ deficit of approximately $2.2 million. We expect to incur losses in future periods as we continue to operate our business and incur expenses associated with being a public company.

As of June 30, 2024, we had approximately $195,000 in cash and restricted cash, $38,000 in accounts receivable, $101,000 in inventory and $23,000 in prepaid expenses. On June 30, 2024, current assets amounted to approximately $357,000 and current liabilities were $3.0 million, resulting in a working capital deficit (with working capital defined as current assets minus current liabilities) of approximately $2.7 million.

Since the commencement of its operations, the Company’s operating and other expenses have significantly exceeded its revenues. During the second quarter of 2023, the Company undertook a review of the Company’s operations and strategic plans, and took measures aimed at improving the Company’s operational efficiency, curtailing operating expenses and further preserving cash resources. Since then, the Company continued to work to reduce its operating expenses, including reducing its warehousing costs, while continuing to provide customers the opportunity to experience its wine and supporting its current retail customers and those purchasing via the Company’s wine club or from its website.

Commencing in June 2023, the Company has worked aggressively to identify prospective new sources of capital, while working with advisors to assess and improve its liquidity position, including from the sale of existing inventory. Later in 2023, the Company entered into purchase orders with Grocery Outlet, a discount retailer who has become one of the largest wholesalers for the Company.

On August 2, 2023, the Company entered into a Securities Purchase Agreement with two accredited investors (the “Purchasers”) pursuant to which the Company agreed to issue and sell in a private placement shares of a newly created series of preferred stock designated as Series A Convertible Preferred Stock (the “Series A Stock”). Pursuant to the Securities Purchase Agreement, the Purchasers collectively purchased 10,000 shares of Series A Stock at a per share purchase price equal to $100.00, for total gross proceeds of $1.0 million. For a description of the Company’s offering of Series A Stock, see Item 7 (Management’s Discussion and Analysis of Financial Condition and Results of Operations) of our Annual Report on Form 10-K for the year ended December 31, 2023 under the caption “Financing Transactions.” As of June 30, 2024, we had approximately $98,000 of accumulated undeclared dividends on the Series A Stock.

In August 2023, Fresh Vine announced that it had initiated an exploration of strategic opportunities by way of merger, acquisition, or any accretive strategic transaction to enhance stockholder value, which is a focus of the Company’s plan to increase its stockholders’ equity and regain compliance with the NYSE American’s continued listing standards. On January 25, 2024, Fresh Vine entered into an Agreement and Plan of Merger (the “Merger Agreement”) Notes, Live, Inc., a Colorado corporation (“Notes Live”), which contemplated that, among other things, and subject to the satisfaction or waiver of certain conditions set forth in the Merger Agreement, our newly-formed wholly-owned subsidiary would merge with and into Notes Live, with Notes Live continuing as a wholly-owned subsidiary of the Company and the surviving corporation of the merger (the “Merger”). See Part I, “Item 1 Business - Recent Developments – Anticipated Merger with Notes Live, Inc.” included in our Annual Report on Form 10-K for the year ended December 31, 2023. On July 31, 2024, the Merger Agreement was terminated.

As disclosed under Part II, Item 1 (Legal Proceedings) of this report, the Company was a defendant in a lawsuit styled Timothy Michaels v. Fresh Vine Wine, Inc. filed May 27, 2022 in the Fourth Judicial District Court, Hennepin County, Minnesota. On January 25, 2024, the jury in the lawsuit rendered a verdict against the Company awarding damages to Mr. Michaels in the amount of $585,976.25. The damages awarded to Mr. Michaels by the trial court are not covered by the Company's insurance policies. On March 25, 2024, Mr. Michaels filed a Notice and Application for Taxation of Costs and Disbursements. On March 26, 2024, the Company filed its Notice of Appeal. On March 26, 2024, Mr. Michaels served a motion for Pre-verdict and Prejudgment Interest. On March 27, 2024, a Notice of Entry of Judgment was filed and, on March 28, 2024, a Notice of Docketing of Judgment was entered. Although the Company believes it has legal grounds to appeal the verdict, continued litigation and related actions may be expensive, the outcome of any litigation (including any appeal) is difficult to predict and the existence of continued litigation may impact the ability of management to focus on other business matters. Furthermore, the Company may be required to post an appeal bond in order to stay execution of the money judgment pending any appeal. Given the Company's current financial position, the cost of such an appeal bond is uncertain and may be higher than the typical cost of such a bond or require the Company to provide cash or other collateral.

On March 14, 2024, Fresh Vine filed with the Secretary of State of the State of Nevada a Certificate of Designation of Preferences, Rights and Limitations of Series B Convertible Preferred Stock, par value $0.001 per share (the "Series B Certificate"). The Series B Certificate designates 50,000 shares of the Fresh Vine's undesignated preferred stock as Series B Convertible Preferred Stock ("Series B Stock") and establishes the rights and preferences of the Series B Stock. Fresh Vine's board of directors has approved the issuance and sale of up to 20,000 shares of Series B Convertible Preferred Stock for a purchase price equal to $100.00 per share. As of June 30, 2024, Fresh Vine has received subscriptions from accredited investors for the purchase of a total of 9,135 shares of Series B Stock and has received aggregate subscription funds (gross) of $913,500. The total number of shares of Series B Stock that the Company will issue and sell has not been finally determined.

At the current reduced pace of incurring expenses and without receipt of additional financing, the Company projects that the existing cash balance will be sufficient to fund current operations through the third quarter of 2024. The Company requires additional debt or equity financing to satisfy its existing obligations, sustain existing operations, pay expenses associated with continuing to pursue its plan to re-comply with the listing standards of the NYSE American stock exchange. See "Current Strategy" below. Additional financing may not be available on favorable terms or at all. If additional financing is available, it may be highly dilutive to existing stockholders and may otherwise include burdensome or onerous terms. The Company's inability to raise additional working capital in a timely manner will negatively impact the ability to fund operations, generate revenues, maintain or grow the business and otherwise execute the Company's business plan, including pursuing its plan to re-comply with the listing standards of the NYSE American stock exchange, leading to the reduction or suspension of operations and ultimately potentially ceasing operations altogether and initiating bankruptcy proceedings. Should this occur, the value of any investment in the Company's securities would be adversely affected.

These factors raise substantial doubt about the Company's ability to continue as a going concern. Our financial statements do not include any adjustments relating to the recoverability and classification of recorded asset amounts or the amounts and classification of liabilities that might be necessary should the Company be unable to continue as a going concern.

Our ability to continue as a going concern in the future will be determined by our ability to generate sufficient cash flow to sustain our operations, raise additional capital in the form of debt or equity financing and/or complete a successful combination transaction with a suitable target company. Our forecast of cash resources is forward-looking information that involves risks and uncertainties, and the actual amount of our expenses could vary materially as a result of a number of factors. We have based our estimates on assumptions that may prove to be wrong, and our revenue could prove to be less and our expenses higher than we currently anticipate. Management does not know whether additional financing will be on terms favorable or acceptable to us when needed, if at all. If we are unable to generate sufficient cash flow to fund our operations and adequate additional funds are not available when required, management may need to curtail its sales and marketing efforts, which would adversely affect our business prospects, or we may be unable to continue operations.

Current Strategy

In August 2023, Fresh Vine announced that it had initiated an exploration of strategic opportunities by way of merger, acquisition, or any accretive strategic transaction to enhance stockholder value, which is a focus of the Company's plan to increase its stockholders' equity and regain compliance with the NYSE American's continued listing standards. On January 25, 2024, Fresh Vine entered into the Merger Agreement. See Part I, "Item 1 Business - Recent Developments – Anticipated Merger with Notes Live, Inc." included in our Annual Report on Form 10-K for the year ended December 31, 2023. On July 31, 2024, the Merger Agreement was terminated.

As a result of the recent termination of the Merger Agreement, Fresh Vine management and board of directors is assessing its strategic options. The Fresh Vine board of directors may elect to, among other things, attempt to complete another strategic transaction like the Merger, attempt to sell or otherwise dispose of the various assets of Fresh Vine, continue to operate the business of Fresh Vine or dissolve and liquidate its assets.

The Fresh Vine board of directors may decide that it is in the best interests of the Fresh Vine stockholders to suspend or cease its operations, seek to dissolve the Company and liquidate its assets, or initiate bankruptcy proceedings. If the Fresh Vine board of directors were to approve and recommend, and the Fresh Vine stockholders were to approve, a dissolution of Fresh Vine, it would be required under Nevada corporate law to pay its outstanding obligations, as well as to make reasonable provision for contingent and unknown obligations, prior to making any distributions in liquidation to the Fresh Vine stockholders. As a result of this requirement, all or a portion of Fresh Vine's assets would need to be reserved pending the resolution of such obligations. In addition, Fresh Vine may be subject to litigation or other claims related to a liquidation and dissolution of the company. If a liquidation and dissolution were pursued, the Fresh Vine board of directors, in consultation with its advisors, would need to evaluate these matters and make a determination about a reasonable amount to reserve. Accordingly, the Fresh Vine stockholders could lose all or a significant portion of their investment in the event of a liquidation and dissolution of Fresh Vine.

Financing Transactions

We have funded our operations through debt and equity financing, as described in Item 7 (Management's Discussion and Analysis of Financial Condition and Results of Operations) of our Annual Report on Form 10-K for the year ended December 31, 2023 under the caption "Financing Transactions," and as described in this report under the caption "Liquidity and Capital Resources."

Critical Accounting Policies and Estimates

The Company's significant accounting policies are detailed in "Note 1: Summary of Significant Accounting Policies" to the financial statements included in the Company's Annual Report on Form 10-K for the year ended December 31, 2023 and this Quarterly Report on Form 10-Q. The Company follows these policies in preparation of the financial statements.

Off-Balance Sheet Arrangements

We have not engaged in any off-balance sheet activities as defined in Item 303(a)(4) of Regulation S-K.

Accounting Standards and Recent Accounting Pronouncements

None.

Emerging Growth Company Status

Pursuant to the JOBS Act, a company constituting an "emerging growth company" is, among other things, entitled to rely upon certain reduced reporting requirements and is eligible to take advantage of an extended transition period to comply with new or revised accounting standards applicable to public companies. We are an emerging growth company and have elected to use this extended transition period for complying with new or revised accounting standards that have different effective dates for public and private companies until the earlier of the date we (i) are no longer an emerging growth company or (ii) affirmatively and irrevocably opt out of the extended transition period provided in the JOBS Act. Our financial statements may, therefore, not be comparable to those of other public companies that comply with such new or revised accounting standards.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

Not required.

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

Rule 13a-15(e) under the Securities Exchange Act of 1934, as amended (the Exchange Act), defines the term "disclosure controls and procedures" as those controls and procedures designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms and that such information is accumulated and communicated to our management, including our principal executive and principal financial officers, or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure.

Management, with the participation of our Chief Executive Officer and Chief Financial Officer, has evaluated the effectiveness of our disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) of the Securities Exchange Act of 1934, as of June 30, 2024. Based on that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) were not effective as of June 30, 2024 due to the material weaknesses in internal control over financial reporting as described below.

Material Weaknesses in Internal Control Over Financial Reporting; Remediation Activities

Management had previously determined that there were material weaknesses in our internal control over financial reporting resulting from (i) a lack of segregation of incompatible duties based on the limited number of employees responsible for the Company's accounting and reporting functions and (ii) the lack of properly designed controls to prepare complete and accurate financial statements and footnotes in accordance with US GAAP in a timely manner. In an effort to remediate the material weakness in our internal control over financial reporting described above, we intend to take the actions to implement the processes described below.

Lack of segregation of duties. To ensure timely and accurate financial reporting, management is designing processes to keep authorization, recordkeeping, custody of assets, and reconciliation duties separate, and intends to reevaluate its overall staffing levels within the accounting, finance and information technology departments and may hire additional staff to enable segregation of duties.

Inability to prepare complete and accurate financial statements and footnotes. To ensure timely and accurate financial reporting, management intends to hire experienced staff to remedy this material weakness.

Once the above actions and processes have been in operation for a sufficient period of time for our management to conclude that the material weaknesses have been fully remediated and our internal controls over financial reporting are effective, we will consider these material weaknesses fully addressed.

Changes in Internal Control Over Financial Reporting

There were no changes in our internal control over financial reporting (as defined in Rule 13a-15(f) under the Securities Exchange Act of 1934) during the fiscal quarter ended June 30, 2024 that has materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

Item 1. Legal Proceedings

Timothy Michaels Lawsuit

The Company was a defendant in a lawsuit styled Timothy Michaels v. Fresh Vine Wine, Inc. filed May 27, 2022 in the Fourth Judicial District Court, Hennepin County, Minnesota. The lawsuit related to a complaint filed by Mr. Michaels resulting from the Company including a restricted “lock-up” legend on shares of the Company’s common stock issued to Mr. Michaels pursuant to a settlement agreement that the Company entered into with Mr. Michaels following termination of his employment and for not removing or directing the Company’s transfer agent to remove such legend. A jury trial commenced on January 23, 2024. During trial, on January 24, 2024, the Company filed a motion for judgement in favor of the Company as a matter of law, which was denied by the Court. On January 25, 2024, the jury in the lawsuit rendered a verdict against the Company awarding damages to Mr. Michaels in the amount of $585,976.25. On February 22, 2024, the Company filed a renewed motion for post-verdict judgment in favor of the Company as a matter of law. On February 26, 2024, the Judge in the lawsuit denied the renewed motion for post-verdict judgment. On March 25, 2024, Mr. Michaels filed a Notice and Application for Taxation of Costs and Disbursements. On March 26, 2024, the Company filed its Notice of Appeal. On March 26, 2024, Mr. Michaels served a motion for Pre-verdict and Prejudgment Interest. On March 27, 2024, a Notice of Entry of Judgment was filed and, on March 28, 2024, a Notice of Docketing of Judgment was entered. Although the Company believes it has legal grounds to appeal the verdict, continued litigation and related actions may be expensive, the outcome of any litigation (including any appeal) is difficult to predict, and the existence of litigation may impact the ability of management to focus on other business matters. Furthermore, the Company may be required to post an appeal bond in order to stay execution of the money judgment pending any appeal. Given the Company’s current financial position, the cost of such an appeal bond is uncertain and may be higher than the typical cost of such a bond or require the Company to provide cash or other collateral.

Website-related Plaintiff’s Lawsuit

On January 26, 2024, the Company was served with a complaint filed in the United States District Court for the Southern District of New York alleging that the Company has failed to design, construct, maintain and operate its Internet website to be fully accessible to and independently usable by blind or visually-impaired persons, thereby denying blind and visually-impaired persons with equal access to the Company’s goods and services in violation of the Title III of the Americans with Disabilities Act of 1990 and the New York Human Rights Law, the New York Civil Rights Law. On February 16, 2024, the Company filed an Answer to the complaint denying the plaintiff’s allegations and asserting affirmative defenses thereto. On May 29, 2024, the Company entered into a settlement agreement pursuant to which the Company made a settlement payment and agreed to remediate its website within a stipulated time period and the plaintiff agreed to dismiss the lawsuit.

Item 1A. Risk Factors

Our strategic efforts to pursue and complete a business combination transaction with a suitable target company, and operate as a combined company thereafter, may not be successful, which would adversely affect our results of operations and financial condition.

We previously announced that we have initiated an exploration of strategic opportunities by way of merger, acquisition, or any accretive strategic transaction to enhance stockholder value, which is a focus of our plan to increase our stockholders’ equity and regain compliance with the NYSE American’s continued listing standards. We have engaged The Oak Ridge Financial Services Group, Inc. as our exclusive investment banker to lead the process of sourcing and vetting potential targets for a merger or other business combination transaction (a “Combination Transaction”) that would result in a combined company that satisfies NYSE American’s listing requirements.

Although we are exploring opportunities with target candidates, there is no guarantee that we will be able to identify suitable combination opportunities, and even if we are able to identify such opportunities, we may not be able to successfully negotiate favorable terms and we may be required to incur significant costs and expenses to execute such a Combination Transaction. If we need to obtain additional financing in connection with a Combination Transaction to pay for transaction expenses or to achieve stockholders' equity of a combined company sufficient to satisfy NYSE American's listing requirements, such financing may not be available to us on favorable terms, if at all. If additional financing is available, it may be highly dilutive to existing stockholders and may otherwise include burdensome or onerous terms. If we do not succeed in raising required funds on acceptable terms, we may be unable to execute on our plan to pursue and complete a Business Combination, which may prevent us regaining compliance with NYSE American's continued listing standards within the prescribed time period and result in our common stock being delisted from the NYSE American.

If we are successful in identifying a suitable target candidate and completing a Combination Transaction, the consideration to the target or its shareholders may be comprised of shares of our stock. The amount of our stock to be issued as consideration in a Combination Transaction would depend on the relative valuations ascribed to the us and the target and may result in significant dilution to our existing stockholders. Furthermore, following a Combination Transaction, our operating results, as a combined company, will be largely dependent on the results of operations of the target's business and on our ability to successfully integrate the target's business with our existing operations. While we seek to combine with a target business that will enable us to generate additional revenue and improve our financial performance, such business may not succeed, which will adversely affect our operating results and financial condition.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

In a Current Report on Form 8-K filed with the Securities and Exchange Commission (the "SEC") on March 20, 2024, the Company disclosed that it designated 50,000 shares of its preferred stock as Series B Convertible Preferred Stock (the "Series B Stock"), and summarized the rights and preferences of the Series B Stock in such report.

In a Current Report on Form 8-K filed with the SEC on March 27, 2024, the Company previously disclosed that the Company's board of directors approved the issuance and sale of up to 20,000 shares of Series B Stock for a purchase price equal to $100.00 per share in a private placement transaction (the "Offering"). As of June 30, 2024, the Company has received securities purchase agreements from accredited investors for the purchase of a total of 9,135 shares of Series B Stock in the Offering and has received aggregate subscription funds of $913,500. The total number of shares of Series B Stock that the Company will issue and sell has not been finally determined.

The Company previously engaged The Oak Ridge Financial Services Group, Inc. to serve as a financial adviser to the Company in connection with the capital raising activities. In connection with the Offering, the Company has agreed to pay the Oak Ridge a cash fee equal to 8.0% of the gross proceeds received by the Company in the Offering, in addition to reimbursing Oak Ridge for its out-of-pocket expenses. In addition, the Company issued to Oak Ridge (or its designees) seven-year warrants to purchase up to a total of 300,000 shares of the Company's common stock at an exercise price equal to $0.50 per share.

The issuance and sale of the shares of Series B Stock in the Offering and pursuant to the Settlement Agreement, and the offer and issuance of common stock of the Company issuable upon conversion or exchange thereof, have not been registered under the Securities Act of 1933, as amended (the “Securities Act”), and therefore may not be offered or sold in the United States absent registration or an applicable exemption from registration requirements. For these offers and issuances, the Company has relied on the exemption from federal registration under Section 4(a)(2) of the Securities Act and/or Rule 506 promulgated thereunder, based on the Company’s belief that the offer and sale of such securities has not and will not involve a public offering.

Item 3. Defaults Upon Senior Securities

None.

Item 4. Mine Safety Disclosures

Not applicable.

Item 5. Other Information

None.

Item 6. Exhibits

See “Exhibit Index” following the signature page of this Quarterly Report on Form 10-Q for a description of the documents that are filed as Exhibits to this Quarterly Report on Form 10-Q or incorporated by reference herein.

SIGNATURES:

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

		FRESH VINE WINE, INC.
Date: August 14, 2024	By:	/s/ Michael Pruitt
		Michael Pruitt Interim Chief Executive Officer
Date: August 14, 2024	By:	/s/ Keith Johnson
		Keith Johnson Interim Chief Financial Officer

EXHIBIT INDEX

FRESH VINE WINE, INC.
FORM 10-Q

Exhibit Number	Description
10.1	Termination Agreement, dated as of July 31, 2024, by and between Fresh Vine Wine, Inc. and Notes Live, Inc. (incorporated by reference to Exhibit 10.1 to Current Report on Form 8-K filed August 1, 2024)
31.1*	Certification of Principal Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2*	Certification of Principal Accounting Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1*	Certifications of Principal Executive Officer and Principal Accounting Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
101.INS*	Inline XBRL Instance Document - the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document.
101.SCH*	Inline XBRL Taxonomy Extension Schema Document
101.CAL*	Inline XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF*	Inline XBRL Taxonomy Extension Definition Linkbase Document
101.LAB*	Inline XBRL Taxonomy Extension Label Linkbase Document
101.PRE*	Inline XBRL Taxonomy Extension Presentation Linkbase Document
104*	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101)

* Filed herewith.

Exhibit 31.1

CERTIFICATION

I, Michael Pruitt, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Fresh Vine Wine Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15-d-15 (e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's Board of Directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 14, 2024

/s/ Michael Pruitt

Michael Pruitt
Interim Chief Executive Officer (Principal Executive Officer)

Exhibit 31.2

CERTIFICATION

I, Keith Johnson, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Fresh Vine Wine Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15-d-15 (e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's Board of Directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 14, 2024

/s/ Keith Johnson

Keith Johnson
Interim Chief Financial Officer (Principal Financial Officer)

Exhibit 32.1

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER AND PRINCIPAL FINANCIAL OFFICER PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report on Form 10-Q of Fresh Vine Wine Inc. (the “Company”) for the quarter ended June 30, 2024 as filed with the Securities and Exchange Commission on the date hereof (the “Report”), I, Michael Pruitt, Interim Chief Executive Officer, and I, Keith Johnson, Interim Chief Financial Officer, of the Company, certify, pursuant to § 906 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. § 1350, that to our knowledge:

(1) The Report fully complies with the requirements of Section 13(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78m); and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: August 14, 2024

/s/ Michael Pruitt
Michael Pruitt
Interim Chief Executive Officer
(Principal Executive Officer)

/s/ Keith Johnson
Keith Johnson
Interim Chief Financial Officer
(Principal Financial Officer)