

CHARMING SHOPPES INC  
Form SC 14D9/A  
May 23, 2012

**SECURITIES AND EXCHANGE COMMISSION**

**Washington, D.C. 20549**

**SCHEDULE 14d-9**

**(Rule 14d-101)**

**Solicitation/Recommendation Statement Under Section 14(d)(4)**

**of the Securities Exchange Act of 1934**

**(Amendment No. 1)**

**CHARMING SHOPPES, INC.**

**(Name of Subject Company)**

**CHARMING SHOPPES, INC.**

**(Name of Person Filing Statement)**

**Common Stock, par value \$0.10 per share**

**(Title of Class of Securities)**

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**161133103**

(CUSIP Number of Class of Securities)

**Colin D. Stern**

**Executive Vice President, General Counsel and Secretary**

**3750 State Road**

**Bensalem, Pennsylvania 19020**

**(215) 245-9100**

(Name, address and telephone number of person authorized to receive notices and  
communications on behalf of person filing statement)

*Copy to:*

**Douglas Raymond**

**Drinker Biddle & Reath LLP**

**One Logan Square, Ste. 2000**

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**(215) 988-2548**

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

### Introduction

This Amendment No. 1 (this Amendment ) amends and supplements the Solicitation/Recommendation Statement on Schedule 14d-9 (as amended or supplemented from time to time, the Statement ) originally filed with the U.S. Securities and Exchange Commission (the SEC ) by Charming Shoppes, Inc., a Pennsylvania corporation ( Charming ), on May 15, 2012. The Statement relates to the offer by Colombia Acquisition Corp. ( Merger Sub ), a Pennsylvania corporation and wholly owned subsidiary of Ascena Retail Group, Inc., a Delaware corporation ( Ascena ), pursuant to which Merger Sub has offered to purchase all of the outstanding Shares at a price of \$7.35 per Share, net to the selling shareholder in cash, without interest and subject to any required withholding taxes, upon the terms and conditions set forth in the Offer to Purchase dated May 15, 2012 and the related Letter of Transmittal (which, together with any amendments or supplements, collectively, constitute the Offer ). The Offer is described in a Tender Offer Statement on Schedule TO filed by Ascena and Merger Sub with the SEC on May 15, 2012.

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

#### Item 8. Additional Information.

Item 8 of the Statement is hereby amended and supplemented by adding the following as a new fourth paragraph immediately following the paragraph under the heading *Litigation Related to the Merger* :

On May 14, 2012, Charming received a letter dated May 8, 2012, from counsel for Phillip E. Ricciardi (the Ricciardi Demand Letter ) demanding that the Board conduct an investigation and commence an action on behalf of Charming against the individual members of the Board for breaches of fiduciary duty arising out of allegedly wrongful conduct in connection with the Offer and the Merger. The Ricciardi Demand Letter refers to the allegations set forth in the Ricciardi Complaint. Charming's disinterested directors believe the allegations in the Ricciardi Demand Letter lack merit and have rejected the demand made by the Ricciardi Demand Letter.

Item 8 of the Statement is hereby further amended and supplemented by adding the following as a new penultimate paragraph under the heading *Litigation Related to the Merger* :

On May 22, 2012, a Verified Class Action and Shareholder Derivative Complaint captioned John Vineyard v. Charming Shoppes, Inc., et al., No. 2012-04715, was filed in the Court of Common Pleas of Bucks County, Pennsylvania (the Vineyard Complaint ). The Vineyard Complaint purports to assert both direct and derivative claims and names as defendants the members of the Board, Charming, Ascena and Merger Sub. The Vineyard Complaint alleges, among other things, that Charming's directors engaged in waste of corporate assets and breached their fiduciary duties to Charming's shareholders in connection with the Offer and the Merger, and further claims that Ascena and Merger Sub aided and abetted those alleged breaches of fiduciary duties. Specifically, the Vineyard Complaint asserts that Charming's directors wrongfully allowed or caused Charming to be acquired by Ascena for unfair and inadequate consideration. The Vineyard Complaint further alleges that Charming's directors failed to take steps to maximize the value of Charming to its public shareholders, failed to properly value Charming and its assets and operations, and ignored or failed to protect against conflicts of interest with respect to the Offer and Merger. The Vineyard Complaint also alleges that the Offer and Merger involve unfair and preclusive deal protection devices, and that Charming's directors agreed to the transactions to benefit themselves personally. In addition, the Vineyard complaint alleges that the defendants disseminated a materially false and misleading Schedule 14d-9. The Vineyard Complaint seeks rescission of the Merger Agreement and injunctive relief, including an order that prohibits defendants from consummating the Offer and Merger, and an award of attorneys' fees and other fees and costs, in addition to other relief. Charming believes the Vineyard Complaint lacks merit and intends to contest it vigorously.

Item 8 of the Statement is hereby further amended and supplemented by adding the following paragraph at the end of the section captioned *Other Regulatory Approvals - United States Antitrust Compliance* :

On May 22, 2012, the Antitrust Division and the FTC granted early termination of the waiting period under the HSR Act in connection with the proposed acquisition by Merger Sub of Shares in the Offer and the Merger. Accordingly, the condition to the Offer relating to the expiration or termination of the HSR Act waiting period has been satisfied. The Offer and the Merger remain subject to other closing conditions.

**SIGNATURE**

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

**CHARMING SHOPPES, INC.**

By: /s/ Anthony M. Romano  
Name: Anthony M. Romano  
Title: Chief Executive Officer and President

Dated May 23, 2012

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