**KROGER CO** Form 4 April 03, 2008

### FORM 4

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

Check this box

if no longer subject to Section 16. Form 4 or

Form 5 obligations may continue. See Instruction

STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF **SECURITIES** 

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

(Print or Type Responses)

1(b).

(Last)

1. Name and Address of Reporting Person \* PERRY M MARNETTE

> (First) (Middle)

**1014 VINE STREET** 

(Street) Filed(Month/Day/Year)

2. Issuer Name and Ticker or Trading Symbol

KROGER CO [KR]

3. Date of Earliest Transaction (Month/Day/Year)

04/02/2008

4. If Amendment, Date Original

5. Relationship of Reporting Person(s) to

Issuer

(Check all applicable)

**OMB APPROVAL** 

3235-0287

January 31,

2005

0.5

**OMB** 

Number:

Expires:

response...

Estimated average

burden hours per

Director 10% Owner X\_ Officer (give title Other (specify below)

Senior Vice President

6. Individual or Joint/Group Filing(Check Applicable Line)

\_X\_ Form filed by One Reporting Person Form filed by More than One Reporting

Person

### CINCINNATI, OH 45202

(City)	(State)	(Zip) Tal	ble I - Non	-Derivativ	e Secu	ırities Acqui	red, Disposed of, o	or Beneficially	Owned
1.Title of Security (Instr. 3)	2. Transaction Date (Month/Day/Year)	2A. Deemed Execution Date, if any (Month/Day/Year)	3. 4. Securities Acquired (A) Transaction Disposed of (D) Code (Instr. 3, 4 and 5) (Instr. 8)  (A) or			5. Amount of Securities Beneficially Owned Following Reported Transaction(s)	6. Ownership Form: Direct (D) or Indirect (I) (Instr. 4)	7. Nature of Indirect Beneficial Ownership (Instr. 4)	
			Code V	Amount	(D)	Price	(Instr. 3 and 4)		
Common Stock	04/02/2008		M	36,000	A	\$ 22.2344	134,939.3335	D	
Common Stock	04/02/2008		S	16,100	D	\$ 25.5	118,839.3335	D	
Common Stock	04/02/2008		S	9,700	D	\$ 25.51	109,139.3335	D	
Common Stock	04/02/2008		S	200	D	\$ 25.52	108,939.3335	D	
Common Stock	04/02/2008		S	5,000	D	\$ 25.523	103,939.3335	D	

Edgar Filing: KROGER CO - Form 4

Common Stock O4/O2/2008 S S,000 D \$25.56 O(1) D

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

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

SEC 1474

(9-02)

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

1. Title of Derivative Security (Instr. 3)	2. Conversion or Exercise Price of Derivative Security	3. Transaction Date (Month/Day/Year)	3A. Deemed Execution Date, if any (Month/Day/Year)	4. Transactic Code (Instr. 8)	5. Number of or Derivative Securities Acquired (A) or Disposed of (D) (Instr. 3, 4, and 5)		6. Date Exercisable and Expiration Date (Month/Day/Year)		7. Title and Amour Underlying Securit (Instr. 3 and 4)	
				Code V	(A)	(D)	Date Exercisable	Expiration Date	Title	Amo or Num of Sh
Non-Qualified Performance Stock Option	\$ 22.2344	04/02/2008		M	1	18,000	(2)	04/16/2008	Common Stock	18,0
Non-Qualified Stock Option	\$ 22.2344	04/02/2008		M	1	8,000	(3)	04/16/2008	Common Stock	18,0

## **Reporting Owners**

Reporting Owner Name / Address Relationships

Director 10% Owner Officer Other

PERRY M MARNETTE 1014 VINE STREET CINCINNATI, OH 45202

Senior Vice President

### **Signatures**

/s/ M. Marnette Perry, by Bruce M. Gack,
Attorney-in-Fact

04/03/2008

\*\*Signature of Reporting Person Date

## **Explanation of Responses:**

- \* If the form is filed by more than one reporting person, see Instruction 4(b)(v).
- \*\* Intentional misstatements or omissions of facts constitute Federal Criminal Violations, See 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).
- (1) The total amount of securities directly owned by the reporting person includes shares in the Company's employee benefit plans that are deemed to be 'tax-conditioned plans' pursuant to Rule 16b-3, to the extent disclosed on reports received from plan trustees.

Reporting Owners 2

#### Edgar Filing: KROGER CO - Form 4

- These options will vest during the first four years from the date of the grant only if the Company's stock price has achieved a 63% appreciation from the option price. Thereafter, the options vest only if the Company's stock price has achieved a minimum of 13% appreciation per annum from the date of grant or 200% appreciation, whichever is less. The options vest nine years and six months after grant, if not sooner vested.
- (3) These options were granted under a long-term incentive plan of The Kroger Co. and vest in equal annual installments in whole amounts over a five-year period, at the rate of 20% per year commencing one year from the date of the grant.

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