PARK CITY GROUP INC
Form SB-2
August 03, 2007

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U.S. SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM SB-2
REGISTRATION STATEMENT
Under
The Securities Act of 1933

PARK CITY GROUP, INC.
**(Exact name of Small Business Issuer as specified in charter)**

| Nevada | (7374) | 37-1454128 |
|---|---|---|
| **(State or Other Jurisdiction of Incorporation or Organization)** | **(Primary Standard Industrial Classification Code Number** | **(I.R.S. Employer Identification Number)** |

3160 Pinebrook Road
Park City, Utah 84098
(435) 645-2000
**(Address and telephone number of principal executive office)**

Randall K. Fields
Chief Executive Officer
3160 Pinebrook Road
Park City, Utah 84098
(435) 645-2000
**(Name, address and telephone number of agent for service)**
with copies to:

A.O. Headman, Jr., Esq.
Cohne, Rappaport & Segal
257 East 200 South, Seventh Floor
(801) 532-2666
Salt Lake City, Utah 84111

**Approximate date of commencement of** As soon as practicable after this Registration Statement becomes effective.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box. ý

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ¨

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ¨

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ¨

If delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box. ¨

CALCULATION OF REGISTRATION FEE

| Title of Each Class of Securities Being Registered | Amount Being Registered (1) | Proposed Maximum Offering Price Per Unit (2) | Proposed Maximum Aggregate Offering Price | Amount of Registration Fee |
|---|---|---|---|---|
| Common Stock, $.01 par value (3) | 1,946,629 | $ 2.95 | $ 5,742,556 | $ 180 |
| Common Stock Underlying Warrants (4) | 611,804 | $ 2.95 | $ 1,804,822 | $ 56 |
| Total | 2,558,433 | | $ 7,547,378 | $ 236 |

(1) Includes shares of our common stock, par value $.01 per share which may be offered pursuant to this Registration Statement and shares issuable upon the exercise of warrants.

(2) Estimated solely for purposes of calculating the registration fee in accordance with Rule 457(c) and Rule 457(g) under the Securities Act of 1933, using the average of the high and low price as reported on the Over-The-Counter Bulletin Board on July 31, 2007, which was $2.95 per share.

(3) Includes 1,946,629 shares of common stock that underlie shares of Park City Group, Inc.'s Series A Convertible Preferred Stock acquired by selling stockholders in a private offering transaction which closed in June 2007.

(4) Includes shares of common stock issuable upon outstanding warrants. The warrants are exercisable at prices ranging from $3.30 to $4.00 with expiration dates ranging from June 8, 2012 to June 22, 2012.

In accordance with Rule 416 of the Securities Act, this Registration also covers such indeterminate amount of additional shares of common stock as may be issuable upon the exercise of the warrants to prevent dilution as a result of stock splits, dividends and anti-dilution provisions of the warrants.

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

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You should rely only on the information contained in this prospectus, including the financial statements and information incorporated by reference into this prospectus. We have not authorized anyone to provide you with information different from that which is contained in this prospectus. This prospectus may be used only where it is legal to sell these securities. The information in this prospectus may only be accurate on the date of this prospectus or the date of the documents incorporated by reference in this prospectus, regardless of the time of delivery of this prospectus or of any sale of securities.

*The information in this prospectus is not complete and may be changed. The selling security holders may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and neither the selling security holders nor we are soliciting offers to buy these securities in any state where the offer or sale is not permitted.*

**SUBJECT TO COMPLETION, DATED JULY 31, 2007**

**PROSPECTUS**

**PARK CITY GROUP, INC.**

**2,558,433 SHARES OF COMMON STOCK**

This prospectus relates to the sale by the selling stockholders of up to 2,558,433 shares of our common stock, $.01 par value. The shares being registered consist of the following: up to 1,946,629 shares of common stock that underlie Series A Convertible Preferred Stock owned by selling stockholders who purchased such shares in a private offering that was completed in June 2007, and up to 611,804 shares of common stock underlying warrants to purchase common stock owned by selling shareholders. The warrants are exercisable at prices ranging from $3.30 to $4.00 with expiration dates ranging from May 31, 2011 to June 22, 2012.

The selling stockholders may sell common stock from time to time in the principal market on which the stock is traded at the prevailing market price or in negotiated transactions. The selling stockholders may be deemed underwriters of the shares of common stock, which they are offering. We will pay the expenses of registering these shares.

Our common stock is registered under Section 12(g) of the Securities Exchange Act of 1934 and is traded on the Over-The-Counter Bulletin Board under the symbol “PCYG”. The last reported sales price per share of our common stock as reported by the Over-The-Counter Bulletin Board on July 31, 2007, was $2.95.

**INVESTING IN THESE SECURITIES INVOLVES SIGNIFICANT RISKS.**
**SEE “RISK FACTORS” BEGINNING ON PAGE 4.**

**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.**

The date of this prospectus is ________, 2007

## PROSPECTUS SUMMARY

*The following summary highlights selected information contained in this prospectus. This summary does not contain all the information you should consider before investing in the securities. Before making any investment decision, you should read the entire prospectus carefully, including the "risk factors" section, the financial statements, and the notes to the financial statements.*

### Overview

Park City Group, Inc. ("Park City Group", "We", 'Us", or the "Company") develops and markets patented and other proprietary computer software and profit optimization consulting services for the retail industry. Our products and services are designed to help our retail customers reduce their inventory and labor costs, the two largest controllable expenses in the retail industry. The technology was the foundation of the success of Mrs. Fields Cookies, also co-founded by our CEO, Randall Fields. Park City Group is headquartered in Park City, Utah and maintains a website at http://www.parkcitygroup.com.

### Principal Products

Our primary products include the following:

***Fresh Market Manager*** ("FMM") is a suite of software applications primarily designed to manage perishable food department operations including bakery, deli, seafood, produce, dairy, frozen foods, meat, home meal replacement, and floral within supermarkets and convenience stores.

***ActionManager***™ is a suite of software applications that addresses the second most important cost element facing today's retailers - labor. ActionManager™ addresses labor issues by forecasting labor demand and scheduling the right staff resources with the appropriate skills at the right time. Additionally, ActionManager™ automates workflow and replaces costly paper-based and manual processes with systems that substantially reduce time spent on administrative tasks, non-productive (non-selling) labor costs, and excess headcount in the retailer's corporate office. ActionManager™ applications provide an automated method for managers to plan, schedule, and administer virtually every time-consuming task in the store.

***Supply Chain Profit Link***. ("SCPL") Supply Chain Profit Link is a software application and consulting service that is designed to facilitate collaboration between suppliers and their retail customers. Supply Chain Profit Link increases the visibility of out-of-stocks and shrink (waste) for both the supplier and retailer enabling better category management practices.

### Customers

We have sold our products and/or provided services to a variety of customers in the U.S. and abroad. Included in our customer base are The Home Depot, Anheuser-Busch Entertainment, Perdue, Monterey Mushrooms, Pacific Sunwear, Wawa and Tesco Lotus.

### Common Stock

| | |
|---|---|
| Common stock outstanding | 8,949,820 shares |
| | 1,634,517 shares |

| | |
|---|---|
| Common Stock underlying all outstanding Options and Warrants | |
| Shares registered for selling stockholders | 2,558,433 shares |

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**Common Stock Offered by Selling Stockholders**

A total of 2,558,433 shares of our common stock are being registered pursuant to the registration statement on Form SB-2 of which this prospectus is a part. A total of 1,946,629 of these share underlying convertible preferred stock that were issued to investors in a private offering that was completed in June 2007 (the "June 2007 Private Offering"). A total of 611,804 of these shares are issuable upon the exercise of currently outstanding warrants (the "Warrants"), including 194,667 shares underlying warrants issued to Taglich Brothers, Inc., the placement agent in the June 2007 Private Offering.

**Use of Proceeds**

We will not receive any proceeds from the sale of the common stock by the selling stockholders. We will receive proceeds from the exercise of the Warrants to the extent the Warrants are exercised. Provided however, any cash proceeds from the exercise of warrants will be used by the Company for general corporate purposes.

**Over-the Counter Bulletin Board Symbol**

Our common stock is traded in the over the counter market and is quoted on the Over-the-Counter Bulletin Board (OTCBB). Our trading symbol is PCYG.

**June 2007 Private Offering**

In June 2007, we completed the sale of 584,000 shares of our Series A Convertible Preferred Stock to 100 accredited investors (the "Investors"), all of whom are included in the selling stockholders group. In connection with our sale of preferred stock, we entered into a Securities Purchase Agreement with each investor. The Securities Purchase Agreement contained provision that requires us to register all of the shares underlying the Convertible Stock sold as well as the stock underlying warrants issued as part of the June 2007 Private Offering. The warrants have a five year life and an exercise price of $4.00 per share. The shares of preferred stock sold in the June 2007 private Offering were sold at a price of $10.00 per share. We received a total of $5,840,000 of gross proceeds in the offering.

In connection with the June 2007 Private Offering, we hired Taglich Brothers, Inc. as our placement agent. We paid Taglich Brothers, Inc. a cash placement fee of 8% of the total offering proceeds from investors introduced by Taglich and 4% for all other participants, or $467,200. As additional compensation, we issued Taglich Brothers, Inc. a warrant to purchase 194,667 shares of our common stock (1 share for every 10 shares underlying the shares sold in the offering) at a price of $3.30 per share and registration rights provisions with each of the Investors. We have included all 1,946,629 shares of the underlying common stock issuable upon conversion of the preferred stock issued to these investors in this registration as well as all 611,804 shares issuable upon the exercise of the Investor and Taglich Brothers warrants.

**Offices**

Our principal place of business is 3160 Pinebrook Road, Park City, UT 84098, telephone 435-645-2000, fax 435-645-2010, or e-mail at randy@parkcitygroup.com. Our website is www.parkcitygroup.com. Park City Group and its officers, directors, and significant shareholders, file reports with the Securities and Exchange Commission under the Securities Exchange Act of 1934.

## RISK FACTORS

Investment in the Securities involves a high degree of risk. Prospective investors should consider the discussion of risks and other information contained in this Memorandum and in the other reports filed by the Company with the SEC before purchasing any Securities.

### *Risks Related To the Company*

**The Company has incurred losses in the past and there can be no assurance that the Company will operate continually or consistently at a profit in the future. Resulting losses could cause a reduction in operations and could have a detrimental effect on the long-term capital appreciation of the Company's stock.**

The Company's marketing strategy emphasizes sales activities for the Fresh Market Manager, ActionManager(TM), and Supply Chain Profit Link applications to Supermarkets, Convenience Stores, Specialty Retail, Financial Services, and Food Manufacturers. If this marketing strategy fails, revenues and operations will be negatively affected. A reduction in revenues will result in increases in operational losses.

For the fiscal year ended June 30, 2006 and for the three and nine months ended March 31, 2007, the Company had net income of $1,393,596, and net losses of $912,173, and $2,193,394, respectively. There can be no assurance that the Company will reliably or consistently operate profitably during future fiscal years. If the Company does not operate profitably in the future the Company's current cash resources will be used to fund the Company's operating losses. If this were to continue, in order to continue with the Company's operations, the Company would need to raise additional capital. Continued losses would have an adverse effect on the long term value of the Company's common stock and an investment in the Company. The Company cannot give any assurance that the Company will ever generate significant revenue or have sustainable profits.

**The Company's liquidity and capital requirements will be difficult to predict, which may adversely affect the Company's cash position in the future.**

In June of 2007, the Company completed the sale of shares of its Series A Convertible Preferred Stock from which it received gross offering proceeds of $5,840,000. The Company anticipates that it will have adequate cash resources to fund its operations for at least the next 12 months. Thereafter, its liquidity and capital requirements will depend upon numerous other factors, including the following:

- The extent to which the Company's products and services gain market acceptance;
- The progress and scope of product evaluations;
- The timing and costs of acquisitions and product and services introductions;
- The extent of the Company's ongoing research and development programs; and
- The costs of developing marketing and distribution capabilities.

If in the future, the Company is required to seek additional financing in order to fund the Company's operations and carry out the Company's business plan, there can be no assurance that such financing will be available on acceptable terms, or at all, and there can be no assurance that any such arrangement, if required or otherwise sought, would be available on terms deemed to be commercially acceptable and in the Company's best interests.

**Operating results may fluctuate, which makes it difficult to predict future performance.**

Management expects a portion of the Company's revenue stream to come from license sales, maintenance and services charged to new customers, which will fluctuate in amounts because software sales to retailers are difficult to predict. In addition, the Company may potentially experience significant fluctuations in future operating results caused by a variety of factors, many of which are outside of its control, including:

- Demand for and market acceptance of new products;
- Introduction or enhancement of products and services by the Company or its competitors;
- Capacity utilization;
- Technical difficulties, system downtime;
- Fluctuations in data communications and telecommunications costs;
- Maintenance subscriber retention;
- The timing and magnitude of capital expenditures and requirements;
- Costs relating to the expansion or upgrading of operations, facilities, and infrastructure;
- Changes in pricing policies and those of competitors;
- Composition and duration of product mix including license sales, consulting fees, and the timing of software rollouts.
- Changes in regulatory laws and policies; and
- General economic conditions, particularly those related to the information technology industry.

Because of the foregoing factors, future operating results may fluctuate. As a result of such fluctuations, it will be difficult to predict operating results. Period-to-period comparisons of operating results are not necessarily meaningful and should not be relied upon as an indicator of future performance. In addition, a relatively large portion of the Company's expenses will be fixed in the short-term, particularly with respect to facilities and personnel. Therefore, future operating results will be particularly sensitive to fluctuations in revenues because of these and other short-term fixed costs.

**The Company will need to effectively manage the Company's growth in order to achieve and sustain profitability. The Company's failure to manage growth effectively could reduce the Company's sales growth and result in continued net losses.**

To achieve continual and consistent profitable operations on a fiscal year on-going basis, the Company must have significant growth in the Company's revenues from the sale of the Company's products and services. If the Company is able to achieve significant growth in future sales and to expand the scope of the Company's operations, the Company's management, financial, and other capabilities and existing procedures and controls could be strained. The Company cannot be certain that its existing or any additional capabilities, procedures, systems, or controls will be adequate to support the Company's operations. The Company may not be able to design, implement, or improve its capabilities, procedures, systems, or controls in a timely and cost-effective manner. Failure to implement, improve and expand the Company's capabilities, procedures, systems, or controls in an efficient and timely manner could reduce the Company's sales growth and result in a reduction of profitability or increase of net losses.

**The Company’s officers and directors have significant control over it, which may lead to conflicts with other stockholders over corporate governance.**

The Company’s officers and directors, other than the Chief Executive Officer, control approximately 8.05% of the Company’s common stock.  The Company’s Chief Executive Officer, Randall K. Fields, individually, controls 48.41% of the Company’s common stock.

Consequently, Mr. Fields, individually, and the Company’s officers and directors, as stockholders acting together, will be able to significantly influence all matters requiring approval by the Company’s stockholders, including the election of directors and significant corporate transactions, such as mergers or other business combination transactions.

**The Company’s corporate charter contains authorized, unissued “blank check” preferred stock that can be issued without stockholder approval with the effect of diluting then current stockholder interests.**

The Company’s certificate of incorporation currently authorizes the issuance of up to 30,000,000 shares of “blank check” preferred stock with designations, rights, and preferences as may be determined from time to time by the Company’s board of directors.  In June 2007, we completed the sale of 584,000 shares of our Series A Convertible Preferred Stock.  The Company’s board of directors is empowered, without stockholder approval, to issue one or more additional series of preferred stock with dividend, liquidation, conversion, voting, or other rights that could dilute the interest of, or impair the voting power of, the Company’s common and other preferred stockholders.  The issuance of an additional series of preferred stock could be used as a method of discouraging, delaying, or preventing a change in control.

**Because the Company has never paid dividends on its Common Stock, you should exercise caution before making an investment in the Company.**

The Company has never paid dividends on its common stock and does not anticipate the declaration of any dividends pertaining to its common stock in the foreseeable future.  The Company intends to retain earnings, if any, to finance the development and expansion of the Company’s business.  The Company’s Board of Directors will determine future dividend policy at their sole discretion and future dividends will be contingent upon future earnings, if any, obligations of the stock issued, the Company’s financial condition, capital requirements, general business conditions and other factors.  Future dividends may also be affected by covenants contained in loan or other financing documents, which may be executed by the Company in the future.  Therefore, there can be no assurance that dividends will ever be paid on its common stock.

**The Company’s business is dependent upon the continued services of the Company’s founder and Chief Executive Officer, Randall K. Fields; should the Company lose the services of Mr. Fields, the Company’s operations will be negatively impacted.**

The Company’s business is dependent upon the expertise of the Company’s founder and Chief Executive Officer, Randall K. Fields.  Mr. Fields is essential to the Company’s operations.  Accordingly, an investor must rely on Mr. Fields’ management decisions that will continue to control the Company’s business affairs after the offering.  The Company currently maintains key man insurance on Mr. Fields’ life in the amount of $10,000,000; however, that coverage would be inadequate to compensate for the loss of his services.  The loss of the services of Mr. Fields would have a materially adverse effect upon the Company’s business.

**If the Company is unable to attract and retain qualified personnel, the Company may be unable to develop, retain or expand the staff necessary to support the Company's operational business needs.**

The Company's current and future success depends on the Company's ability to identify, attract, hire, train, retain and motivate various employees, including skilled software development, technical, managerial, sales, marketing and customer service personnel. Competition for such employees is intense and the Company may be unable to attract or retain such professionals. If the Company fails to attract and retain these professionals, the Company's revenues and expansion plans may be negatively impacted.

**The Company's officers and directors have limited liability and indemnification rights under the Company's organizational documents, which may impact the Company's results.**

The Company's officers and directors are required to exercise good faith and high integrity in the management of the Company's affairs. The Company's certificate of incorporation and bylaws, however, provide, that the officers and directors shall have no liability to the stockholders for losses sustained or liabilities incurred which arise from any transaction in their respective managerial capacities unless they violated their duty of loyalty, did not act in good faith, engaged in intentional misconduct or knowingly violated the law, approved an improper dividend or stock repurchase, or derived an improper benefit from the transaction. As a result, an investor may have a more limited right to action than he would have had if such a provision were not present. The Company's certificate of incorporation and bylaws also require it to indemnify the Company's officers and directors against any losses or liabilities they may incur as a result of the manner in which they operate the Company's business or conduct the Company's internal affairs, provided that the officers and directors reasonably believe such actions to be in, or not opposed to, the Company's best interests, and their conduct does not constitute gross negligence, misconduct or breach of fiduciary obligations.

***Business Operations Risks***

**If the Company's marketing strategy fails, the Company's revenues and operations will be negatively affected.**

The Company plans to concentrate the Company's future sales efforts towards marketing the Company's applications and services. These applications and services are designed to be highly flexible so that they can work in multiple retail and supplier environments such as grocery stores, convenience stores, quick service restaurants, and route-based delivery environments. There is no assurance that the public will accept the Company's applications and services in proportion to the Company's increased marketing of this product line. The Company may face significant competition that may negatively affect demand for the Company's applications and services, including the public's preference for the Company's competitors' new product releases or updates over the Company's releases or updates. If the Company's applications and services marketing strategy fails, the Company will need to refocus the Company's marketing strategy to the Company's other product offerings, which could lead to increased marketing costs, delayed revenue streams, and otherwise negatively affect the Company's operations.

**Because the Company is changing the emphasis of the Company's sales activities from an annual license fee structure to a monthly fee structure, the Company's revenues may be negatively affected.**

Historically, the Company offered applications and related maintenance contracts to new customers for a one-time, non-recurring up front license fee and provided an option for annually renewing their maintenance agreements. Because the Company's one-time licensing fee approach was subject to inconsistent and unpredictable revenues, the Company now offers prospective customers an option for monthly subscription based licensing of these products. The Company's customers may now choose to acquire a license to use the software on an Application Solution Provider basis (also referred to as ASP) resulting in monthly charges for use of the Company's software products and maintenance fees. The Company's conversion from a strategy of one-time, non-recurring licensing based model to a monthly-based recurring fees based approach is subject to the following risks:

- The Company's customers may prefer one-time fees rather than monthly fees;
- Because public awareness pertaining to the Company's Application Solution Provider services will be delayed until the Company begins its marketing campaign to promote those services, the Company's revenues may decrease over the short term; and
- There may be a threshold level (number of locations) at which the monthly based fee structure may not be economical to the customer, and a request to convert from monthly fees to annual fee could occur.

**The Company faces competition from competing and emerging technologies that may affect the Company's profitability**.

The markets for the Company's type of software products and that of the Company's competitors are characterized by: