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HARTE HANKS INC
Form S-8
June 07, 2002

As filed with the Securities and Exchange Commission on June 7, 2002.

Registration No. 333-

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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM S-8

REGISTRATION STATEMENT UNDER THE
SECURITIES ACT OF 1933

HARTE-HANKS, INC.
(Exact Name of Registrant as Specified in Its Charter)

DELAWARE

(State or Other Jurisdiction of
Incorporation or Organization)

76-1677284

(I.R.S. Employer
Identification No.)

200 CONCORD DRIVE; SUITE 800
SAN ANTONIO, TEXAS 78216
(210) 829-9000
(Address and Telephone Number of Principal Executive Offices)

HARTE-HANKS, INC.
1994 EMPLOYEE STOCK PURCHASE PLAN
(Full Title of the Plans)

DEAN H. BLYTHE
VICE PRESIDENT, LEGAL AND SECRETARY
HARTE-HANKS, INC.
200 CONCORD DRIVE; SUITE 800
SAN ANTONIO, TEXAS 78216
(214) 829-9000
(Name, Address, and Telephone Number,
including Area Code, of Agent for Service)

COPY TO:
LAURA M. KALESNIK
HUGHES & LUCE, LLP
1717 MAIN STREET, SUITE 2800
DALLAS, TEXAS 75201
(214) 939-5500

CALCULATION OF REGISTRATION FEE

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TITLE OF EACH CLASS OF SECURITIES TO BE REGISTERED	AMOUNT TO BE REGISTERED	PROPOSED MAXIMUM OFFERING PRICE PER SHARE	PROPOSED MAXIMUM AGGREGATE OFFERING PRICE
Common Stock, \$1.00 par value	3,000,000	\$21.28	\$63,840,000

- (1) Pursuant to Rule 416(a) under the Securities Act of 1933, as amended (the "Securities Act"), this Registration Statement also covers an indeterminate amount of shares as may be required to cover possible adjustments under the plans and agreements covered hereby by reason of any stock dividend, stock split, share combination, exchange of shares, recapitalization, merger, consolidation, separation, reorganization, liquidation or the like, of or by the registrant. Pursuant to Rule 416 (c) under the Securities Act, this Registration Statement also covers an indeterminate amount of interests to be offered or sold, if any, under the plans and agreements covered hereby.
- (3) Estimated solely for the purpose of calculating the registration fee. The registration fee has been calculated in accordance with Rules 457(c) and 457(h) under the Securities Act on the basis of the average of the high and low prices of the Common Stock as quoted on The New York Stock Exchange on June 6, 2002, which was \$21.28.

EXPLANATORY STATEMENT

Harte-Hanks, Inc., a Delaware corporation (the "Registrant"), hereby files this registration statement on Form S-8 (this "Registration Statement") with the Securities and Exchange Commission (the "SEC") on June 7, 2002 for the purpose of registering an additional 3,000,000 shares of common stock, par value \$1.00 per share (the "Common Stock") issuable upon the exercise of options to be granted pursuant to the Harte-Hanks, Inc. 1994 Employee Stock Purchase Plan (the "Purchase Plan") which shares are of the same class as other securities for which a registration statement on Form S-8 (Registration No. 333-30995) was filed on July 7, 1997 (the "Prior Registration Statement"). Pursuant to General Instruction E to Form S-8 ("General Instruction E"), the Registrant incorporates by reference herein the contents of the Prior Registration Statement, including the information incorporated by reference therein.

Currently, 3,000,000 shares of Common Stock are registered under the Purchase Plan (after giving effect to a 3-for-2 stock split on May 30, 2002). On May 7, 2002 the Registrant's stockholders authorized an increase in the aggregate number of shares available for issuance under the Purchase Plan. This Registration Statement registers the increase of 3,000,000 shares of Common Stock issuable under the Purchase Plan, bringing the total number of registered shares under the Purchase Plan to 6,000,000.

PART II

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INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

ITEM 3. INCORPORATION OF CERTAIN DOCUMENTS BY REFERENCE.

The following documents heretofore filed with the Securities and Exchange Commission (the "Commission") by the Registrant are incorporated by reference in this Registration Statement:

(a) Annual Report on Form 10-K for the fiscal year ended December 31, 2001, which contains the Registrant's audited financial statements for the Registrant's last completed fiscal year (the "2001 Form 10-K").

(b) All other reports filed by the Registrant pursuant to Section 13(a) or 15(d) of the Exchange Act since the end of the fiscal year covered by the Annual Report referred to in (a) above; and

(c) The description of the Registrant's Common Stock contained in the Registrant's Registration Statement on Form 8-A, dated October 7, 1993, (File Number 33-69202), including any amendment or report filed for the purpose of updating such description.

All documents subsequently filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act, prior to the filing of a post-effective amendment to this Registration

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Statement which indicates that all of the shares of Common Stock offered have been sold or which deregisters all of such shares then remaining unsold, shall be deemed to be incorporated by reference in this Registration Statement and to be a part hereof from the date of filing of such documents (such documents, and the documents enumerated above, "Incorporated Documents").

Any statement contained in an Incorporated Document shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any other subsequently filed Incorporated Document modifies or supersedes such statement. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

ITEM 4. DESCRIPTION OF SECURITIES.

Not applicable.

ITEM 5. INTERESTS OF NAMED EXPERTS AND COUNSEL.

Not applicable.

ITEM 6. INDEMNIFICATION OF DIRECTORS AND OFFICERS.

As permitted by Section 145 of the Delaware General Corporation Law ("Delaware Law"), the Registrant's Bylaws provide that the directors and officers of the Registrant will be indemnified by the Registrant against certain liabilities that those persons may incur in their capacities as directors or officers. Furthermore, the Registrant's Amended and Restated Certificate of Incorporation eliminates the liability of directors of the Registrant to the fullest extent permitted by Delaware law.

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ITEM 7. EXEMPTION FROM REGISTRATION CLAIMED.

Not applicable.

ITEM 8. EXHIBITS.

The Exhibits to this Registration Statement are listed in the Index to Exhibits on Page II-9 of this Registration Statement, which Index is incorporated herein by reference.

ITEM 9. UNDERTAKINGS.

(a) The Registrant hereby undertakes:

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(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act;

(ii) To reflect in the prospectus any facts or events arising after the effective date of this Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in this Registration Statement;

(iii) To include any material information with respect to the plan of distribution not previously disclosed in this Registration Statement or any material change to such information in this Registration Statement;

provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Commission by the Registrant pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference in the Registration Statement.

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The Registrant hereby undertakes that for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to Section 13(a) or 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to

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Section 15(d) of the Exchange Act) that is incorporated by reference in the Registration Statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) Insofar as indemnification by the Registrant for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the provisions described in Item 6, or otherwise, the Registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification by the Registrant against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is

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asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

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SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of San Antonio, State of Texas, on June 7, 2002.

HARTE-HANKS, INC.

By: /s/ RICHARD M. HOCHHAUSER

Richard M. Hochhauser
President and Chief Executive Officer
(Principal Executive Officer)

By: /s/ JACQUES D. KERREST

Jacques D. Kerrest
Senior Vice President, Finance
and Chief Financial Officer
(Principal Financial and Accounting
Officer)

POWER OF ATTORNEY

We, the undersigned officers and directors of Harte-Hanks,

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Inc. hereby severally constitute and appoint Richard M. Hochhauser and Dean H. Blythe, and each of them singly, our true and lawful attorneys with full power to them, and each of them singly, to sign for us and in our names in the capacities indicated below, the Registration Statement on Form S-8 filed herewith, any other Registration Statement related to the same offering, and any and all amendments (including post-effective amendments) to the Registration Statement, and generally to do all things in our name and behalf in the capacities indicated below to enable Harte-Hanks, Inc. to comply with the provisions of the Securities Act of 1933, as amended, and all requirements to the Securities and Exchange Commission, hereby ratifying and confirming our signatures as they may be signed by our attorneys, or any of them, to said Registration Statement and any and all amendments thereto.

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated:

Signature -----	Title -----	
/s/ HOUSTON H. HARTE ----- Houston H. Harte	Vice Chairman	June 7,
/s/ CHRISTOPHER M. HARTE ----- Christopher M. Harte	Director	June 7,
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/s/ LARRY FRANKLIN ----- Larry Franklin	Chairman	June 7,
/s/ RICHARD M. HOCHHAUSER ----- Richard M. Hochhauser	President, Chief Executive Officer, and Director	June 7,
/s/ JAMES L. JOHNSON ----- James L. Johnson	Director	June 7,
/s/ DAVID L. COPELAND ----- David L. Copeland	Director	June 7,
/s/ DR. PETER T. FLAWN ----- Dr. Peter T. Flawn	Director	June 7,

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/s/ WILLIAM K. GAYDEN

Director

June 7,

William K. Gayden

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INDEX TO EXHIBITS

EXHIBIT NUMBER -----	DESCRIPTION -----
4.1	Amended and Restated Certificate of Incorporation (incorporated by reference from the Registrant's Form 10-Q for the six months ended June 30, 1998).
4.2	Second Amended and Restated Bylaws (incorporated by reference from the Registrant's Form 10-Q for the nine months ended September 30, 2001).
5.1*	Opinion of Hughes & Luce, LLP
23.1*	Consent of Hughes & Luce, LLP (contained in Exhibit 5.1)
23.2*	Consent of KPMG LLP
24.1*	Power of Attorney (contained in signature page)

*Filed herewith.