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AMCON DISTRIBUTING CO
Form 10-Q
January 20, 2009

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
FORM 10-Q

/X/ Quarterly report pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934

For the quarterly period ended December 31, 2008

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 1-15589

AMCON Distributing Company

(Exact name of registrant as specified in its charter)

Delaware

47-0702918

(State or other jurisdiction
of incorporation or organization)

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

7405 Irvington Road, Omaha NE

68122

(Address of principal executive offices)

(Zip code)

Registrant's telephone number, including area code: (402) 331-3727

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 X No

Indicate by check mark whether the registrant is a large accelerated
filer, an accelerated filer, a non-accelerated filer, or a smaller reporting
company. See the definitions of "large accelerated filer", "accelerated
filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer (Do not check
(if a smaller reporting company)

Smaller reporting company

X

Indicate by check mark whether the registrant is a shell company (as defined
in Rule 12b-2 of the Exchange Act)

Yes No X

The Registrant had 570,397 shares of its \$.01 par value common stock
outstanding as of January 12, 2009.

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Form 10-Q
1st Quarter

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AMCON Distributing Company and Subsidiaries
 Condensed Consolidated Balance Sheets
 December 31, 2008 and September 30, 2008

| | December 2008 (Unaudited) | September 2008 |
|--|------------------------------|-------------------|
| ASSETS | | |
| Current assets: | | |
| Cash | \$ 355,534 | \$ 457, |
| Accounts receivable, less allowance for doubtful accounts of \$0.8 million at December 2008 and September 2008 | 23,330,043 | 27,198, |
| Inventories, net | 35,504,911 | 37,330, |
| Deferred income taxes | 1,278,575 | 1,260, |
| Current assets of discontinued operations | 13,793 | 18, |
| Prepaid and other current assets | 2,686,082 | 3,519, |
| Total current assets | 63,168,938 | 69,786, |
| Property and equipment, net | 10,834,975 | 10,907, |
| Goodwill | 5,848,808 | 5,848, |
| Other intangible assets | 3,373,269 | 3,373, |
| Deferred income taxes | 168,794 | 234, |
| Non-current assets of discontinued operations | 2,032,047 | 2,032, |
| Other assets | 1,475,194 | 1,123, |
| | \$ 86,902,025 | \$ 93,305, |
| LIABILITIES AND SHAREHOLDERS' EQUITY | | |
| Current liabilities: | | |
| Accounts payable | \$ 15,761,949 | \$ 14,738, |
| Accrued expenses | 5,176,971 | 5,275, |
| Accrued wages, salaries and bonuses | 1,413,962 | 2,636, |
| Income taxes payable | 901,832 | 313, |
| Current liabilities of discontinued operations | 4,137,898 | 4,041, |
| Current maturities of credit facility | 3,046,000 | 3,046, |
| Current maturities of long-term debt | 1,533,919 | 787, |
| Total current liabilities | 31,972,531 | 30,838, |
| Credit facility, less current maturities | 24,288,411 | 32,155, |
| Long-term debt, less current maturities | 5,581,359 | 6,525, |
| Noncurrent liabilities of discontinued operations | 6,562,860 | 6,542, |
| Series A cumulative, convertible preferred stock, \$.01 par value 100,000 shares authorized and issued, liquidation preference \$25.00 per share | 2,438,355 | 2,438, |
| Series B cumulative, convertible preferred stock, \$.01 par value 80,000 shares authorized and issued, liquidation preference \$25.00 per share | 1,857,645 | 1,857, |
| Series C cumulative, convertible preferred stock, \$.01 par value 80,000 shares authorized and issued, liquidation preference \$25.00 per share | 1,982,372 | 1,982, |
| Commitments and contingencies (Note 11) | | |
| Shareholders' equity: | | |
| Preferred stock, \$.01 par, 1,000,000 shares authorized, | | |

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| | | |
|--|---------------|------------|
| 260,000 shares outstanding and issued in Series A, B and C referred to above | - | |
| Common stock, \$.01 par value, 3,000,000 shares authorized, 570,397 shares outstanding at December 2008 and September 2008 | 5,704 | 5, |
| Additional paid-in capital | 7,112,256 | 6,995, |
| Retained earnings | 5,100,532 | 3,963, |
| | ----- | ----- |
| Total shareholders' equity | 12,218,492 | 10,965, |
| | ----- | ----- |
| | \$ 86,902,025 | \$ 93,305, |
| | ===== | ===== |

The accompanying notes are an integral part of these condensed consolidated unaudited financial statements.

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AMCON Distributing Company and Subsidiaries
Condensed Consolidated Unaudited Statements of Operations
for the three months ended December 31, 2008 and 2007

| | 2008 | |
|---|----------------|---------|
| | ----- | ----- |
| Sales (including excise taxes of \$50.3 million and \$51.6 million, respectively) | \$ 217,377,363 | \$ 210, |
| Cost of sales | 201,532,714 | 195, |
| | ----- | ----- |
| Gross profit | 15,844,649 | 15, |
| | ----- | ----- |
| Selling, general and administrative expenses | 12,797,583 | 12, |
| Depreciation and amortization | 310,334 | |
| | ----- | ----- |
| | 13,107,917 | 12, |
| | ----- | ----- |
| Operating income | 2,736,732 | 2, |
| | ----- | ----- |
| Other expense (income): | | |
| Interest expense | 489,199 | |
| Other (income), net | (14,067) | |
| | ----- | ----- |
| | 475,132 | |
| | ----- | ----- |
| Income from continuing operations before income taxes | 2,261,600 | 1, |
| Income tax expense | 860,000 | |
| | ----- | ----- |
| Income from continuing operations | 1,401,600 | 1, |
| | ----- | ----- |
| Discontinued operations (Note 2) | | |
| Loss from discontinued operations, net of income tax benefit of \$0.1 million | | |

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| | | |
|--|--------------|----|
| in December 2008 and December 2007 | (102,038) | |
| Net income | 1,299,562 | |
| Preferred stock dividend requirements | (105,533) | |
| Net income available to common shareholders | \$ 1,194,029 | \$ |
| Basic earnings (loss) per share available to common shareholders: | | |
| Continuing operations | \$ 2.38 | \$ |
| Discontinued operations | (0.19) | |
| Net basic earnings per share available to common shareholders | \$ 2.19 | \$ |
| Diluted earnings (loss) per share available to common shareholders: | | |
| Continuing operations | \$ 1.64 | \$ |
| Discontinued operations | (0.12) | |
| Net diluted earnings per share available to common shareholders | \$ 1.52 | \$ |
| Weighted average shares outstanding: | | |
| Basic | 545,593 | |
| Diluted | 856,052 | |

The accompanying notes are an integral part of these condensed consolidated unaudited financial statements.

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AMCON Distributing Company and Subsidiaries
Condensed Consolidated Unaudited Statements of Cash Flows
for the three months ended December 31, 2008 and 2007

| | 2008 | 2007 |
|---|--------------|----------|
| CASH FLOWS FROM OPERATING ACTIVITIES: | | |
| Net income | \$ 1,299,562 | \$ 949,2 |
| Deduct: Loss from discontinued operations, net of tax | (102,038) | (95,9 |
| Income from continuing operations | 1,401,600 | 1,045,2 |
| Adjustments to reconcile net income from continuing operations to net cash flows from operating activities: | | |
| Depreciation | 310,334 | 352,5 |
| Amortization | - | 9,9 |
| Gain on sale of property and equipment | (43,697) | (1,6 |
| Stock based compensation | 132,900 | 42,9 |
| Excess tax deficiency on vesting of equity-based awards | 16,592 | |
| Deferred income taxes | 47,411 | 653,9 |

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| | | |
|--|-------------|----------|
| Provision for losses on doubtful accounts | 77,006 | 44,0 |
| Provision for losses on inventory obsolescence | 92,790 | 160,8 |
| Changes in assets and liabilities: | | |
| Accounts receivable | 3,791,365 | 3,240,7 |
| Inventories | 1,733,268 | (4,479,4 |
| Prepaid and other current assets | 833,568 | 759,0 |
| Other assets | (351,942) | (438,6 |
| Accounts payable | 1,023,735 | (2,381,0 |
| Accrued expenses and accrued wages, salaries and bonuses | (1,321,463) | (1,297,6 |
| Income tax payable | 572,219 | (173,5 |
| | ----- | ----- |
| Net cash flows from operating activities - continuing operations | 8,315,686 | (2,462,6 |
| Net cash flows from operating activities - discontinued operations | 19,727 | (94,9 |
| | ----- | ----- |
| Net cash flows from operating activities | 8,335,413 | (2,557,5 |
| CASH FLOWS FROM INVESTING ACTIVITIES: | | |
| Purchases of property and equipment | (265,971) | (280,6 |
| Proceeds from sales of property and equipment | 71,900 | 8 |
| | ----- | ----- |
| Net cash flows from investing activities | (194,071) | (279,7 |
| CASH FLOWS FROM FINANCING ACTIVITIES: | | |
| Net (payments) borrowings on bank credit agreement | (7,866,594) | 2,523,6 |
| Principal payments on long-term debt | (197,731) | (117,0 |
| Proceeds from exercise of stock options | - | 119,6 |
| Excess tax deficiency on vesting of equity-based awards | (16,592) | |
| Dividends on preferred stock | (105,533) | (105,5 |
| Dividends on common stock | (57,039) | |
| | ----- | ----- |
| Net cash flows from financing activities | (8,243,489) | 2,420,6 |
| | ----- | ----- |
| Net change in cash | (102,147) | (416,6 |
| Cash, beginning of period | 457,681 | 717,5 |
| | ----- | ----- |
| Cash, end of period | \$ 355,534 | \$ 300,9 |
| | ===== | ===== |

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| | 2008 | 2007 |
|---|------------|-----------|
| | ----- | ----- |
| Supplemental disclosure of cash flow information: | | |
| Cash paid during the period for interest | \$ 544,238 | \$ 992,51 |
| Cash paid during the period for income taxes | 182,371 | 101,59 |

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Supplemental disclosure of non-cash information:
Acquisition of equipment through capital leases

- 38,09

The accompanying notes are an integral part of these condensed consolidated unaudited financial statements.

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AMCON Distributing Company and Subsidiaries Notes to Condensed Consolidated Unaudited Financial Statements

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES AND BASIS OF PRESENTATION

AMCON Distributing Company and Subsidiaries ("AMCON" and "the Company") is primarily engaged in the wholesale distribution of consumer products in the Great Plains and Rocky Mountain regions. In addition, the Company operates thirteen retail health food stores in Florida and the Midwest.

AMCON's wholesale distribution business ("ADC") includes five distribution centers that sell approximately 14,000 different consumer products, including cigarettes and tobacco products, candy and other confectionery, beverages, groceries, paper products, health and beauty care products, frozen and chilled products and institutional food service products. The Company distributes products primarily to retailers such as convenience stores, discount and general merchandise stores, grocery stores and supermarkets, drug stores and gas stations. In addition, the Company services institutional customers, including restaurants and bars, schools, sports complexes and vendors, as well as other wholesalers.

AMCON also operates six retail health food stores in Florida under the name Chamberlin's Market & Cafe (Chamberlin's) and seven in the Midwest under the name Akin's Natural Foods Market (Akin's). These stores carry natural supplements, groceries, health and beauty care products and other food items.

Results for the interim period are not necessarily indicative of results to be expected for the entire year.

All significant intercompany transactions and balances have been eliminated in consolidation. Certain information and footnote disclosures normally included in our annual financial statements prepared in accordance with generally accepted accounting principles have been condensed or omitted. In the opinion of management, the accompanying condensed consolidated unaudited financial statements contain all adjustments necessary to fairly present the financial information included therein, such adjustments consisting of normal recurring items. The Company believes that although the disclosures are adequate to prevent the information presented from being misleading, these condensed consolidated unaudited financial statements should be read in conjunction with the Company's annual audited consolidated financial statements for the fiscal year ended September 30, 2008, as filed with the Securities and Exchange Commission on Form 10-K.

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For purposes of this report, unless the context indicates otherwise, all references to "we", "us", "our", "Company", and "AMCON" shall mean AMCON Distributing Company and its subsidiaries. The wholesale distribution segment of our Company will be separately referred to as "ADC". Additionally, the three month fiscal periods ended December 31, 2008 and December 31, 2007 have been referred to throughout this quarterly report as Q1 2009 and Q1 2008, respectively. The fiscal balance sheet dates of December 31, 2008, December 31, 2007, and September 30, 2008 have been referred to as December 2008, December 2007, and September 2008, respectively.

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Accounting Changes

During Q1 2009, the Company adopted the following accounting standards:

The Company adopted the provisions of SFAS No. 157, "Fair Value Measurements" (SFAS 157). SFAS 157 defines fair value, establishes a framework for measuring fair value, and expands disclosures about fair value measurements. The provisions of SFAS 157 apply to all financial instruments which are measured and reported at fair value on a recurring basis. In February 2008, the Financial Accounting Standards Board ("FASB") issued FASB Staff Position ("FSP") FAS 157-2, which delayed the effective date of SFAS 157 to fiscal years beginning after November 15, 2008 (fiscal 2010 for the Company) for all nonfinancial assets and liabilities, except those that are recognized or disclosed at fair value in the financial statements on a recurring basis (at least annually). Assets and liabilities subject to this deferral include goodwill, intangible assets, and long-lived assets measured at fair value for impairment assessments, and nonfinancial assets and liabilities initially measured at fair value in a business combination. As the Company does not have any financial assets or liabilities measured at fair value on a recurring basis, nor does it have any nonfinancial assets and liabilities not subject to the FSP 157-2 delay, the adoption of SFAS No. 157 did not have any impact on our consolidated financial position or results of operations.

The Company adopted the provisions of FASB Statement No. 159 ("SFAS 159"), "The Fair Value Option for Financial Assets and Financial Liabilities". This standard provides an option for companies to report selected financial assets and liabilities at fair value. Although the Company adopted the provisions of SFAS 159, it did not elect the fair value option for any financial instruments or other items held by the Company. Therefore, the adoption of SFAS 159 did not have any impact on the Company's consolidated financial position or results of operations.

The Company adopted the provisions of Emerging Issues Task Force ("EITF") Issue No. 06-10 "Accounting for Collateral Assignment Split-Dollar Life Insurance Agreements" (EITF 06-10). EITF 06-10 provides guidance for determining a liability for the postretirement benefit obligation as well as recognition and measurement of the associated asset on the basis of the terms of the collateral assignment agreement. The adoption of EITF 06-10 did not have any impact on our consolidated financial position or results of operations.

The Company adopted the provisions of FASB Statement of Financial Accounting Standards No. 162, The Hierarchy of Generally Accepted Accounting Principles ("SFAS 162"). This Standard identifies the sources of accounting principles

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and the framework for selecting the principles to be used in the preparation of financial statements of nongovernmental entities that are presented in conformity with generally accepted accounting principles. SFAS 162 directs the hierarchy to the entity, rather than the independent auditors, as the entity is responsible for selecting accounting principles for financial statements that are presented in conformity with generally accepted accounting principles. The adoption of this standard did not have an impact on the Company's financial statements.

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Recently Issued Accounting Pronouncements

The Company is currently evaluating the impact of implementing the following new accounting standards:

In June 2008, the FASB issued FSP-EITF No. 03-6-1, "Determining Whether Instruments Granted in Share-Based Payment Transactions Are Participating Securities". FSP EITF 03-6-1 provides that unvested share-based payment awards that contain non-forfeitable rights to dividends or dividend equivalents (whether paid or unpaid) are participating securities and shall be included in the computation of earnings per share pursuant to the two-class method. FSP EITF 03-6-1 is effective for fiscal years beginning after December 15, 2008 (fiscal 2010 for the Company) and interim periods within those years. Upon adoption, a company is required to retrospectively adjust its earnings per share data (including any amounts related to interim periods, summaries of earnings and selected financial data) to conform to the provisions of FSP EITF 03-6-1.

In April 2008, the FASB issued FASB Staff Position No. FAS 142-3, Determination of the Useful Life of Intangible Assets ("FSP No. FAS 142-3"). FSP No. FAS 142-3 requires companies estimating the useful life of a recognized intangible asset to consider their historical experience in renewing or extending similar arrangements or, in the absence of historical experience, to consider assumptions that market participants would use about renewal or extension as adjusted for SFAS No. 142's, Goodwill and Other Intangible Assets, entity-specific factors. FSP No. FAS 142-3 is effective for fiscal years beginning after December 15, 2008 (fiscal 2010 for the Company). The Company is currently evaluating the impact of implementing FAS 142-3.

2. DISPOSITION

Discontinued operations include the residual assets, liabilities, and results of operations of Trinity Springs, Inc. ("TSI") for Q1 2009 and Q1 2008. TSI operated a water bottling facility in Idaho prior to its closure.

In September 2007, the Company signed a Mutual Release and Settlement Agreement (the "Settlement Agreement") to resolve litigation among and between AMCON, TSI, and Crystal Paradise Holdings, Inc. ("CPH") related to a 2004 Asset Purchase Agreement ("Asset Purchase Agreement"), under which TSI acquired certain assets from CPH. In conjunction with the Settlement Agreement, AMCON entered into a \$5.0 million note payable to CPH. The note is due in September 2012 and accrues interest at 5.0%. The Settlement Agreement also provides CPH with an option to purchase TSI's remaining assets for a price equivalent to the amount due CPH under the \$5.0 million note payable, plus accrued interest. If CPH elects to exercise the asset purchase

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option, CPH is required to cancel the \$5.0 million note payable, including any accrued interest. CPH's asset purchase option expires March 31, 2009 and had not been exercised as of December 31, 2008.

The Company has recorded a \$1.5 million pre-tax deferred gain in connection with the Settlement Agreement. This deferred gain has been classified as a component of noncurrent liabilities of discontinued operations in the Company's Consolidated Balance Sheets. The deferred gain will be recognized upon the earlier of CPH's election to exercise the asset purchase option or the expiration of the asset purchase option.

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A summary of discontinued operations is as follows:

| | Q1 2009 ----- | Q1 2008 ----- |
|-----------------------------------|------------------|------------------|
| Operating loss | (44,129) | (39,245) |
| Interest expense | (116,009) | (115,750) |
| Income tax benefit | (58,000) | (59,000) |
| Loss from discontinued operations | (102,038) | (95,995) |

The carrying amounts (net of allowances) of the major classes of assets and liabilities included in discontinued operations are as follows (in millions):

| | December 2008 ----- | September 2008 ----- |
|---|---------------------------|----------------------------|
| Fixed assets - Total noncurrent assets of discontinued operations | \$ 2.0 ===== | \$ 2.0 ===== |
| Accounts payable | \$ 0.5 | \$ 0.5 |
| Accrued expenses | 0.8 | 0.7 |
| Current portion of long-term debt due related party /1/ | 2.8 ----- | 2.8 ----- |
| Total current liabilities of discontinued operations | \$ 4.1 ===== | \$ 4.0 ===== |
| Deferred gain on CPH settlement | \$ 1.5 | \$ 1.5 |
| Long-term debt, less current portion | 5.1 ----- | 5.0 ----- |
| Noncurrent liabilities of discontinued operations | \$ 6.6 ===== | \$ 6.5 ===== |

/1/ TSI's related party debt obligations were in default at both December 2008 and September 2008. TSI has not obtained associated debt default waivers for the related party obligations and accordingly has classified these obligations as current liabilities of discontinued operations.

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3. CONVERTIBLE PREFERRED STOCK:

The Company had three series of Convertible Preferred Stock outstanding at December 2008 as identified in the following table:

| | Series A ----- | Series B ----- | Series C ----- |
|--|-------------------|-------------------|-------------------|
| Date of issuance: | June 17, 2004 | October 8, 2004 | March 6, 2006 |
| Optionally redeemable beginning | June 18, 2006 | October 9, 2006 | March 4, 2008 |
| Par value (gross proceeds): | \$2,500,000 | \$2,000,000 | \$2,000,000 |
| Number of shares: | 100,000 | 80,000 | 80,000 |
| Liquidation preference per share: | \$25.00 | \$25.00 | \$25.00 |
| Conversion price per share: | \$30.31 | \$24.65 | \$13.62 |
| Number of common shares in which to be converted: | 82,481 | 81,136 | 146,842 |
| Dividend rate: | 6.785% | 6.37% | 6.00% |

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The Series A Convertible Preferred Stock ("Series A"), Series B Convertible Preferred Stock ("Series B"), and Series C Convertible Preferred Stock ("Series C"), collectively (the "Preferred Stock"), are convertible at any time by the holders into a number of shares of AMCON common stock equal to the number of preferred shares being converted times a fraction equal to \$25.00 divided by the conversion price. The conversion prices for the Preferred Stock are subject to customary adjustments in the event of stock splits, stock dividends and certain other distributions on the Common Stock. Cumulative dividends for the Preferred Stock are payable in arrears, when, as and if declared by the Board of Directors, on March 31, June 30, September 30 and December 31 of each year.

In the event of a liquidation of the Company, the holders of the Preferred Stock, are entitled to receive the liquidation preference plus any accrued and unpaid dividends prior to the distribution of any amount to the holders of the Common Stock. The Preferred Stock also contain redemption features which trigger based on certain circumstances such as a change of control, bankruptcy, or minimum ownership thresholds in AMCON by Mr. William Wright ("Mr. Wright") and his family. Mr. Wright is AMCON's founder, largest common shareholder, and a Company director. The shares of Preferred Stock are optionally redeemable by the Company beginning on various dates, as listed in the above table, at redemption prices equal to 112% of the liquidation preference. The redemption prices decrease 1% annually thereafter until the redemption price equals the liquidation preference, after which date it remains the liquidation preference. The Company's credit facility prohibits the redemption of the Series A and Series B. Series C is only redeemable so long as no event of default is in existence at the time of, or would occur after giving effect to, any such redemption, and the Company has excess availability under the credit facility of not less than \$2.0 million after giving effect to any such redemption.

The Company believes that redemption of these securities by the holders is not probable based on the following evaluation. Our executive officers and directors as a group beneficially own approximately 44% of the outstanding common stock at September 2008. Mr. Wright beneficially owns 24% of the

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outstanding common stock without giving effect to shares owned by his adult children. There is a substantial identity of interest among AMCON and its officers and directors for purposes of the determination of whether the triggering redemption events described above are within the control of AMCON since AMCON can only make decisions on control or other matters through those persons. Moreover, there is no expectation that there would be any effort by the holders of the Preferred Stock to seek optional redemption without the Board being supportive of the events that may trigger that right. The Series A is owned by Mr. Wright and a private equity firm (Draupnir, LLC) of which Mr. Hobbs, a director of the Company, is a member. The Series B Preferred Stock is owned by an institutional investor which has elected Mr. Chris Atayan, AMCON's Chief Executive Officer and Chairman of the Board of Directors pursuant to voting rights in the Certificate of Designation creating the Series B Preferred Stock. The Series C is owned by Draupnir Capital LLC, which is a subsidiary of Draupnir, LLC (the owner of Series A). Mr. Hobbs is also a Member of Draupnir Capital, LLC.

In view of the foregoing considerations, the Company believes it is not probable under Rule 5-02.28 of Regulation S-X that the Series A, Series B or Series C Preferred Stock will become redeemable in the foreseeable future.

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4. INVENTORIES

Inventories consisted of the following at December 2008 and September 2008:

| | December 2008 | September 2008 |
|----------------|------------------|-------------------|
| | ----- | ----- |
| Finished goods | \$ 35,504,911 | \$ 37,330,969 |
| | ===== | ===== |

Inventories are stated at the lower of cost, determined on a FIFO basis, or market. The wholesale distribution and retail health food segment inventories consist of finished products purchased in bulk quantities to be redistributed to the Company's customers or sold at retail. Finished goods include total reserves of approximately \$0.7 million and \$0.6 million at December 2008 and September 2008, respectively. These reserves include the Company's obsolescence allowance, which reflects estimated unsaleable or non-refundable inventory based upon an evaluation of slow moving and discontinued products.

5. GOODWILL AND OTHER INTANGIBLE ASSETS

Goodwill by reporting segment of the Company consisted of the following:

| | December 2008 | September 2008 |
|-----------|------------------|-------------------|
| | ----- | ----- |
| Wholesale | \$ 3,935,931 | \$ 3,935,931 |
| Retail | 1,912,877 | 1,912,877 |
| | ----- | ----- |

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| | |
|--------------|--------------|
| \$ 5,848,808 | \$ 5,848,808 |
| ===== | ===== |

Other intangible assets of the Company consisted of the following:

| | December 2008 | September 2008 |
|---------------------------|------------------|-------------------|
| | ----- | ----- |
| Trademarks and tradenames | \$ 3,373,269 | \$ 3,373,269 |
| | ===== | ===== |

Goodwill, trademarks and tradenames are considered to have indefinite useful lives and therefore no amortization has been taken on these assets. The Company performs annual impairment testing of goodwill and other intangible assets during the fourth fiscal quarter of each year.

6. DIVIDENDS:

On October 23, 2008, the Company declared a cash dividend of \$0.10 per common share payable on November 21, 2008 to shareholders of record as of November 3, 2008. Cash dividends paid to common shareholders during Q1 2009 totaled \$57,039.

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7. EARNINGS (LOSS) PER SHARE

Basic earnings (loss) per share available to common shareholders is calculated by dividing income (loss) from continuing operations less preferred stock dividend requirements and income (loss) from discontinued operations by the weighted average common shares outstanding for each period. Diluted earnings (loss) per share available to common shareholders is calculated by dividing income (loss) from continuing operations less preferred stock dividend requirements (when anti-dilutive) and income (loss) from discontinued operations by the sum of the weighted average common shares outstanding and the weighted average dilutive options, using the treasury stock method.

Stock options and potential common stock outstanding at December 2008 and December 2007 that were anti-dilutive were not included in the computations of diluted earnings per share. Such potential common shares totaled 41,983 and 9,248 at December 2008 and December 2007, respectively. The average exercise price of anti-dilutive options and potential common stock was \$26.74 and \$47.39 at December 2008 and December 2007, respectively.

| | For the three months ended December | | | |
|--|-------------------------------------|---------|---------|---------|
| | 2008 | | 2007 | |
| | Basic | Diluted | Basic | Diluted |
| | ----- | ----- | ----- | ----- |
| Weighted average common shares outstanding | 545,593 | 545,593 | 533,900 | 533,900 |

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| | | | | |
|--|--------------|--------------|--------------|--------------|
| Weighted average of net additional shares outstanding assuming dilutive options exercised and proceeds used to purchase treasury stock and conversion of preferred stock /1/ | - | 310,459 | - | 315,287 |
| | ----- | ----- | ----- | ----- |
| Weighted average number of shares outstanding | 545,593 | 856,052 | 533,900 | 849,187 |
| | ===== | ===== | ===== | ===== |
| Income from continuing operations | \$ 1,401,600 | \$ 1,401,600 | \$ 1,045,208 | \$ 1,045,208 |
| Deduct: preferred stock dividend requirements /2/ | (105,533) | - | (105,533) | - |
| | ----- | ----- | ----- | ----- |
| | 1,296,067 | 1,401,600 | 939,675 | 1,045,208 |
| | ===== | ===== | ===== | ===== |
| Loss from discontinued operations | \$ (102,038) | \$ (102,038) | \$ (95,995) | \$ (95,995) |
| | ===== | ===== | ===== | ===== |
| Net income available to common shareholders | \$ 1,194,029 | \$ 1,299,562 | \$ 843,680 | \$ 949,213 |
| | ===== | ===== | ===== | ===== |
| Income per share from continuing operations | \$ 2.38 | \$ 1.64 | \$ 1.76 | \$ 1.23 |
| | ===== | ===== | ===== | ===== |
| Loss per share from discontinued operations | \$ (0.19) | \$ (0.12) | \$ (0.18) | \$ (0.11) |
| | ===== | ===== | ===== | ===== |
| Net earnings per share available to common shareholders | \$ 2.19 | \$ 1.52 | \$ 1.58 | \$ 1.12 |
| | ===== | ===== | ===== | ===== |

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/1/ Diluted earnings per share calculation includes all stock options, Convertible Preferred Stock, and restricted stock, in each case, that are deemed to be dilutive.

/2/ Diluted earnings per share calculation excludes dividend payments for Convertible Preferred Stock deemed to be dilutive, as those amounts are assumed to have been converted to common stock of the Company.

8. DEBT

The Company has a credit agreement with Bank of America (the "Facility"), which includes the following significant terms:

- A June 2011 maturity date.
- A \$55.0 million revolving credit limit, plus the outstanding balance on Term Note A. Term Note A had an outstanding balance of \$0.3 million at December 2008.
- The Facility bears interest at either the bank's prime rate or at

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a LIBOR based rate at the election of the Company.

- The Facility provides for an additional \$5.0 million of credit available for certain inventory purchases. These advances bear interest at the bank's prime rate plus one-quarter of one-percent (1/4%) per annum and are payable within 45 days of each advance.
- Lending limits subject to accounts receivable and inventory limitations, and an unused commitment fee equal to one-quarter of one percent (1/4%) per annum on the difference between the maximum loan limit and average monthly borrowings.
- Collateral including all of the Company's equipment, intangibles, inventories, and accounts receivable.
- Provides that the Company may not pay dividends on its common stock in excess of \$0.72 per share on an annual basis.
- The Facility includes a prepayment penalty equal to a predetermined percentage of the original maximum loan limit of \$60.4 million if the Company prepays the entire Facility and terminates the credit agreement before specified dates. The prepayment penalty percentages are as follows: (1) one percent (1%) if prepayment occurs on or before June 30, 2009, and (2) one-half of one percent (1/2%) if prepayment occurs subsequent to June 30, 2009 but on or before June 30, 2010.

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The Facility also includes quarterly debt service and cumulative earnings before interest, taxes, depreciation and amortization ("EBITDA") financial covenants. A minimum debt service ratio of 1.0 to 1.0 must be maintained, as measured by the twelve month period then ended. The cumulative minimum EBITDA requirements are as follows:

- (a) \$1,000,000 for the three months ending December 31, 2008 and;
- (b) \$2,000,000 for the six months ending March 31, 2009

The Company was in compliance with the required debt service and minimum EBITDA covenants at December 2008.

The Company's maximum available credit limit for the revolving portion of the Facility was \$49.5 million at December 2008, however, the amount available for use at any given time is subject to many factors including eligible accounts receivable and inventory balances which are evaluated on a daily basis.

At December 2008, the outstanding balance on the revolving portion of the Facility was \$27.0 million. The Facility bears interest at a variable rate equal to the bank's prime rate, which was 3.25% at December 2008. Based on our collateral and loan limits as defined by the Facility agreement, the Company's excess availability under the Facility at December 2008 was approximately \$22.5 million.

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Cross Default and Co-Terminus Provisions

The Company's owned real estate in Bismarck, ND, Quincy, IL, and Rapid City, SD, and certain warehouse equipment in the Rapid City, SD warehouse is financed through term loans with Marshall and Ilsley Bank ("M&I"), which is also a participant lender on the Company's revolving line of credit. The M&I loans contain cross default provisions which cause all loans with M&I to be considered in default if any one of the loans where M&I is a lender, including the revolving credit facility, is in default. In addition, the M&I loans contain co-terminus provisions which require all loans with M&I to be paid in full if any of the loans are paid in full prior to the end of their specified terms.

OTHER

AMCON has issued a letter of credit for \$0.8 million to its workers' compensation insurance carrier as part of its self-insured loss control program.

Off-Balance Sheet Arrangements

The Company does not have any off-balance sheet arrangements.

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9. EQUITY-BASED INCENTIVE AWARDS

Stock Options

At December 2008, the Company had two groups of stock option awards issued and outstanding. The first award group includes incentive and non-qualified stock options issued to management employees and outside directors pursuant to the Company's stock-based compensation plan ("the Stock Option Plan"). The Stock Option Plan expired in fiscal 2004 and all compensation expense related to the plan was fully amortized in prior fiscal periods.

The second award group includes 25,000 non-qualified stock options issued to the Company's Chief Executive Officer in fiscal 2007. These stock options vest in equal installments over a three year period and have an exercise price of \$18.00 per share. At December 2008, 16,666 of these stock options had vested.

Stock options issued and outstanding to management employees at December 2008 are summarized as follows:

| Date | Exercise Price | Number of Options Outstanding | Number Exercisable |
|------|----------------|-------------------------------------|-----------------------|
|------|----------------|-------------------------------------|-----------------------|

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| | | | |
|-------------|---------------------|--------|--------|
| Fiscal 1999 | \$ 45.68 - \$ 51.14 | 6,591 | 6,591 |
| Fiscal 2000 | \$ 34.50 | 3,123 | 3,123 |
| Fiscal 2003 | \$ 28.80 | 3,170 | 3,170 |
| Fiscal 2007 | \$ 18.00 | 25,000 | 16,666 |
| | | ----- | ----- |
| | | 37,884 | 29,550 |
| | | ===== | ===== |

Stock options issued and outstanding to the Company's outside directors at December 2008 are summarized as follows:

| Date | Exercise Price | Number of Options Outstanding | Number Exercisable |
|-------------|---------------------|-------------------------------------|-----------------------|
| ----- | ----- | ----- | ----- |
| Fiscal 1999 | \$ 36.82 - \$ 49.09 | 2,568 | 2,568 |
| Fiscal 2002 | \$ 26.94 | 834 | 834 |
| Fiscal 2003 | \$ 28.26 | 834 | 834 |
| | | ----- | ----- |
| | | 4,236 | 4,236 |
| | | ===== | ===== |

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The following summarizes all stock options outstanding at December 2008:

| | Exercise Price | Number Outstanding | Remaining Weighted-Average Contractual Life | Weighted-Average Exercise Price | Exercisable Number Exercisable | Exercisable Weighted-Average Exercise Price |
|--------------|-----------------|--------------------|---|---------------------------------|--------------------------------|---|
| ----- | ----- | ----- | ----- | ----- | ----- | ----- |
| 1999 Options | \$36.82-\$51.14 | 9,159 | 0.38 years | \$47.35 | 9,159 | \$ |
| 2000 Options | \$34.50 | 3,123 | 1.45 years | \$34.50 | 3,123 | \$ |
| 2002 Options | \$26.94 | 834 | 3.62 years | \$26.94 | 834 | \$ |
| 2003 Options | \$28.26-\$28.80 | 4,004 | 3.99 years | \$28.69 | 4,004 | \$ |
| 2007 Options | \$18.00 | 25,000 | 8.00 years | \$18.00 | 16,666 | \$ |
| | | ----- | | ----- | ----- | ----- |
| | | 42,120 | | \$26.80 | 33,786 | \$ |
| | | ===== | | ===== | ===== | ===== |

The following is a summary of the activity of the stock plans for the quarter ended December 2008:

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| | Number of Shares | Weighted Average Exercise Price |
|--------------------------------------|------------------------|--|
| | ----- | ----- |
| Outstanding at September 2008 | 42,120 | \$26.80 |
| Granted | - | - |
| Exercised | - | - |
| Forfeited/Expired | - | - |
| | ----- | ----- |
| Outstanding at December 2008 | 42,120 | \$26.80 |
| | ===== | ===== |
| Options exercisable at end of period | 33,786 | |
| | ===== | |

The Company's stock options have varying vesting schedules, ranging up to five years and expiring ten years subsequent to the grant date. Net income before incomes taxes included compensation expense related to stock options of approximately \$0.03 million in both Q1 2009 and Q1 2008. Total unamortized compensation expense related to stock options at December 2008 totaled approximately \$0.1 million. This unamortized stock expense is expected to be amortized over approximately the next fiscal year (the expected weighted-average period).

The aggregate intrinsic value of stock options outstanding at December 2007 was approximately \$0.4 million and the aggregate intrinsic value of stock options exercisable at December 2007 was approximately \$0.1 million. At December 2008, stock options outstanding and exercisable had no intrinsic value.

The total intrinsic value of stock options exercised during Q1 2008 was approximately \$0.2 million. There were no stock options exercised during Q1 2009. The total fair value of stock options vested in Q1 2009 and Q1 2008 was approximately \$0.1 million and \$0.3 million, respectively.

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Omnibus Plan

The Company has an Omnibus Incentive Plan ("the Omnibus Plan") which provides for equity incentives to employees. The Omnibus Plan was designed with the intent of encouraging employees to acquire a vested interest in the growth and performance of the Company. The Omnibus Plan permits the issuance of up to 150,000 shares of the Company's common stock in the form of stock options, restricted stock awards, restricted stock units, performance share awards as well as awards such as stock appreciation rights, performance units, performance shares, bonus shares, and dividend share awards payable in the form of common stock or cash.

Pursuant to the Omnibus Plan, the Compensation Committee of the Board of Directors has authorized and approved the restricted stock awards as summarized below:

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| | Restricted Stock /1/ ----- | Restricted Stock /2/ ----- |
|--|-------------------------------|-------------------------------|
| Date of award: | December 6, 2007 | January 29, 2008 |
| Number of shares: | 24,000 | 7,500 |
| Service period: | 34 months | 36 months |
| Estimated fair value of award at grant date/3/: | \$963,000 | \$229,000 |
| Intrinsic value of awards outstanding at December 2008: | \$264,000 | \$124,000 |

/1/ 8,000 shares vested on October 16, 2008. The remaining 16,000 shares will vest in equal amounts (8,000 per year) on October 16, 2009 and October 16, 2010.

/2/ Award vests one-third on January 29, 2009, one-third on January 29, 2010, and one-third on January 29, 2011.

/3/ Amount is net of estimated forfeitures.

There is no direct cost to the recipients of the restricted stock awards, except for any applicable taxes. The restricted stock held by recipients are entitled to full voting rights and the customary adjustments in the event of stock splits, stock dividends, and certain other distributions on the Company's common stock. All cash dividends and/or distributions payable to restricted stock recipients will be held in escrow until all the conditions of vesting have been met.

The Company recognizes compensation expense related to restricted stock awards on a straight-line basis over the requisite service period. Accordingly, net income before incomes taxes included compensation expense of \$0.1 million and \$0.01 in Q1 2009 and Q1 2008, respectively. Total unamortized compensation expense related to restricted stock awards at December 2008 was approximately \$0.8 million. This unamortized compensation expense is expected to be amortized over approximately the next two fiscal years (the expected weighted-average period).

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The following summarizes restricted stock activity under the Omnibus Plan during Q1 2009:

| | Number of Shares | Weighted Average Grant Date Fair Value |
|---|------------------------|--|
| ----- | | |
| Nonvested restricted stock at September 2008 | 31,500 | \$40.16 |
| Granted | - | - |
| Vested/Issued | (8,000) | \$42.50 |
| Forfeited/Expired | - | - |
| ----- | | |
| Nonvested restricted stock at December 2008 | 23,500 | \$39.35 |

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10. BUSINESS SEGMENTS

AMCON has two reportable business segments: the wholesale distribution of consumer products and the retail sale of health and natural food products. The retail health food stores' operations are aggregated to comprise the retail segment because such operations have similar economic characteristics, as well as similar characteristics with respect to the nature of products sold, the type and class of customers for the health food products and the methods used to sell the products. Included in the "Other" column is intercompany eliminations, charges incurred by the holding company, and assets of discontinued operations. The segments are evaluated on revenues, gross margins, operating income (loss), and income before taxes.

| | Wholesale Distribution ----- | Retail ----- | Other /1/ ----- | Consolidated ----- |
|---|------------------------------------|-----------------|--------------------|-----------------------|
| THREE MONTHS ENDED DECEMBER 2008: | | | | |
| External revenue: | | | | |
| Cigarettes | \$ 152,262,945 | \$ - | \$ - | \$ 152,262,945 |
| Confectionery | 15,461,696 | - | - | 15,461,696 |
| Health food | - | 8,980,794 | - | 8,980,794 |
| Tobacco, food service & other | 40,671,928 | - | - | 40,671,928 |
| | ----- | ----- | ----- | ----- |
| Total external revenue | 208,396,569 | 8,980,794 | - | 217,377,363 |
| Depreciation | 248,164 | 61,023 | 1,147 | 310,334 |
| Amortization | - | - | - | - |
| Operating income (loss) | 3,288,077 | 587,839 | (1,139,184) | 2,736,732 |
| Interest expense | 132,679 | 169,545 | 186,975 | 489,199 |
| Income (loss) from continuing operations before taxes | 3,159,150 | 428,609 | (1,326,159) | 2,261,600 |
| Total assets | 71,535,006 | 11,341,987 | 4,025,032 | 86,902,025 |
| Capital expenditures | 128,490 | 137,481 | - | 265,971 |

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| | Wholesale Distribution ----- | Retail ----- | Other /1/ ----- | Consolidated ----- |
|-----------------------------------|------------------------------------|-----------------|--------------------|-----------------------|
| THREE MONTHS ENDED DECEMBER 2007: | | | | |
| External revenue: | | | | |
| Cigarettes | \$ 149,611,531 | \$ - | \$ - | \$ 149,611,531 |

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| | | | | |
|---|-------------|------------|-------------|-------------|
| Confectionery | 14,107,957 | - | - | 14,107,957 |
| Health food | - | 9,521,555 | - | 9,521,555 |
| Tobacco, food service & other | 37,422,194 | - | - | 37,422,194 |
| | ----- | ----- | ----- | ----- |
| Total external revenue | 201,141,682 | 9,521,555 | - | 210,663,237 |
| Depreciation | 231,766 | 120,319 | 456 | 352,541 |
| Amortization | - | 9,933 | - | 9,933 |
| Operating income (loss) | 2,812,633 | 811,374 | (1,001,208) | 2,622,799 |
| Interest expense | 230,235 | 324,206 | 415,361 | 969,802 |
| Income (loss) from continuing operations before taxes | 2,589,985 | 498,470 | (1,402,247) | 1,686,208 |
| Total assets | 73,379,656 | 11,302,023 | 6,976,532 | 91,658,211 |
| Capital expenditures | 269,232 | 11,387 | - | 280,619 |

/1/ Includes intercompany eliminations, charges incurred by the holding company, and assets of discontinued operations.

11. CONTINGENCIES

Trinity Springs, Inc. / Crystal Paradise Holdings, Inc. Litigation

 In September 2007, the Company signed a Mutual Release and Settlement Agreement (the "Settlement Agreement") to resolve litigation among and between AMCON, TSI, and Crystal Paradise Holdings, Inc. ("CPH") related to a 2004 Asset Purchase Agreement ("Asset Purchase Agreement"), under which TSI acquired certain assets from CPH.

In conjunction with the Settlement Agreement, AMCON entered into a \$5.0 million note payable to CPH. The note is due in September 2012 and accrues interest at 5.0%. The Settlement Agreement also provides CPH with an option to purchase TSI's remaining assets for a price equivalent to the amount due CPH under the \$5.0 million note payable, plus accrued interest. This option expires March 31, 2009. If CPH elects to exercise its asset purchase option, CPH is required to cancel the \$5.0 million note payable, including any accrued interest. As of December 31, 2008, CPH had not yet exercised its asset purchase option.

The Company has recorded a \$1.5 million pre-tax deferred gain in connection with the Settlement Agreement. This deferred gain has been classified as a component of noncurrent liabilities of discontinued operations in the Company's Consolidated Balance Sheets. The deferred gain will be recognized upon the earlier of CPH's election to exercise the asset purchase option or the expiration of the asset purchase option.

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

FORWARD LOOKING STATEMENTS

This Quarterly Report on Form 10-Q, including the Management's Discussion and Analysis and other sections, contains forward looking statements that are subject to risks and uncertainties and which reflect management's current beliefs and estimates of future economic circumstances, industry conditions,

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company performance and financial results. Forward looking statements include information concerning the possible or assumed future results of operations of the Company and those statements preceded by, followed by or that include the words "future," "position," "anticipate(s)," "expect," "believe(s)," "see," "plan," "further improve," "outlook," "should" or similar expressions. For these statements, we claim the protection of the safe harbor for forward looking statements contained in the Private Securities Litigation Reform Act of 1995. Forward-looking statements are not guarantees of future performance or results. They involve risks, uncertainties and assumptions. You should understand that the following important factors, in addition to those discussed elsewhere in this document, could affect the future results of the Company and could cause those results to differ materially from those expressed in our forward looking statements:

- increases in state and federal excise taxes on cigarette and tobacco products, including proposed legislation to renew and expand the State Children's Health Insurance Program ("SCHIP"), which would be largely funded through significant increases to federal excise taxes on cigarette and tobacco products
- declining market conditions with regard to cigarettes,
- changes in promotional and incentive programs offered by manufacturers,
- credit risk associated with the Company's wholesale segment customers,
- decreased availability of capital resources due to recent events in the credit markets,
- the demand for the Company's products,
- new business ventures,
- domestic regulatory and legislative risks,
- competition,
- poor weather conditions,
- increases in fuel prices,
- other risks over which the Company has little or no control, and
- any other factors not identified herein.

Changes in these factors could result in significantly different results. Consequently, future results may differ from management's expectations. Moreover, past financial performance should not be considered a reliable indicator of future performance. Any forward looking statement contained herein is made as of the date of this document. Except as required by law, the Company undertakes no obligation to publicly update or correct any of these forward looking statements in the future to reflect changed assumptions, the occurrence of material events or changes in future operating results, financial conditions or business over time.

CRITICAL ACCOUNTING ESTIMATES

Certain accounting estimates used in the preparation of the Company's financial statements require us to make judgments and estimates and the financial results we report may vary depending on how we make these judgments and estimates. Our critical accounting estimates are set forth in our Form 10-K for the fiscal year ended September 30, 2008, as filed with the Securities and Exchange Commission. There have been no significant changes with respect to these policies during the three months ended December 2008.

COMPANY OVERVIEW - FIRST FISCAL QUARTER 2009 (Q1 2009)

The following discussion and analysis includes the Company's results of operations from continuing operations for the three months ended December

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2008 and 2007. Continuing operations are comprised of our wholesale distribution and retail health food segments. A separate discussion of our discontinued operations has been presented following our analysis of continuing operations. Accordingly, the sales, gross profit (loss), selling, general and administrative, depreciation and amortization, direct interest, other expenses and income tax benefit from our discontinued operations have been aggregated and reported as income (loss) from discontinued operations and are not a component of the aforementioned continuing operations discussion.

During Q1 2009, the Company:

- generated \$2.7 million in operating income as compared to \$2.6 million for Q1 2008.
- recognized income from continuing operations per basic share of \$2.38 and \$1.76 for the three months ended December 2008 and December 2007, respectively.
- recognized a loss from discontinued operations per basic share of (\$0.19) and (\$0.18) for the three months ended December 2008 and December 2007, respectively.
- paid a \$0.10 dividend per common share.

Wholesale Distribution Segment (ADC)

Our wholesale distribution segment represents approximately 96% of the Company's consolidated sales. ADC serves approximately 4,000 retail outlets in the Great Plains and Rocky Mountain regions and is ranked as a top ten convenience store supplier according to Convenience Store News. While we provide our retailers with a broad selection of merchandise in all product categories, we remain largely dependent on cigarette sales, which account for approximately 70% of ADC total sales. ADC is also focused on growing its sales of non-tobacco products, which offer higher profit margins and greater revenue stream diversity.

The wholesale distribution industry is mature and highly competitive. To differentiate itself, ADC leverages a number of strategies focused around providing market-leading customer service programs and offering flexible delivery capabilities. These strategies have helped position ADC as a distributor of choice for both small independent retail outlets and multi-location retail outlets.

ADC has significant alliances with the major cigarette manufacturers which we believe control over 90% of the cigarette industry volume. While some of our competitors have focused on the lower-priced cigarette brands, ADC has made a conscious decision to support and grow our national brand segment and align our business with the major players in the industry. We believe that it is important not to compete against the major cigarette manufacturers because of their commitment to growing and maintaining their market share in a declining category. Additionally, we believe that consumers' preference for premium brands currently drives the category volume.

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The wholesale distribution industry continues to experience significant changes driven by higher excise taxes, the popularity of deep-discount cigarette brands, and consolidation within the industry's customer base (principally convenience stores and tobacco shops). Collectively, we expect these items will continue to pressure profit margins industry-wide and could potentially decrease the Company's profitability.

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To capitalize on the industry-wide changes mentioned above, ADC aggressively manages its cost structure, heavily leverages inventory management strategies, and deploys new technologies and automation tools where possible. These actions have allowed ADC to maintain competitive pricing and position itself to capture new business, sell new services to our existing customers, explore acquisition opportunities, and further penetrate the convenience store market.

Retail Health Food Segment

AMCON's retail health food stores, which are operated as Chamberlin's Market & Cafe ("Chamberlin's" or "CNF") and Akin's Natural Foods Market ("Akin's" or "ANF"), offer thousands of different product selections to their customers. Chamberlin's, which was first established in 1935, is an award-winning and highly-acclaimed chain of six health and natural product retail stores, all offering an extensive selection of natural supplements and herbs, baked goods, dairy products, and organic produce. Chamberlin's operates all of its stores in and around Orlando, Florida.

Akin's, established in 1935, is also an award-winning chain of seven health and natural product retail stores, each offering an extensive line of natural supplements and herbs, dairy products, and organic produce. Akin's has locations in Tulsa and Oklahoma City, Oklahoma; Lincoln, Nebraska; Springfield, Missouri; and Topeka, Kansas.

In recent years, the retail health food industry has experienced high growth rates as the demand for non-processed natural products (pesticide-free, hormone-free, non-genetically modified) become popular among more health conscious consumers. Our retail health food segment has successfully capitalized on this trend through its continuous efforts offer only the highest quality products in combination with targeted marketing efforts. Most recently, however, rising food commodity prices and weak economic conditions have decreased growth rates industry-wide.

ECONOMIC CONDITIONS

The current economic downturn, characterized by falling real estate values, battered retirement portfolio values, higher food prices, and disruptions in the availability of credit, have collectively impacted consumer confidence throughout the country as well as the regions in which we operate.

Based on these factors, future sales for both of our business segments may be negatively impacted in the near term. Many of our wholesale segment customers are thinly capitalized and their access to credit and reduced cash flow from operations may impact their ability to operate as a going concern, presenting additional credit risk for the Company. Further, a general decrease in consumer discretionary spending will likely pressure retail level sales for our convenience store customers, which will in turn decrease our wholesale segment sales volume.

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Our retail segment will likely face a challenging environment in the near term as well, as the aforementioned macroeconomic issues push consumers to purchase cheaper alternatives to natural food products and/or decrease the average basket size of their purchases. We believe the economic hardships consumers now face will negatively impact purchasing patterns such as the frequency of shopping trips or price sensitivity. Accordingly, we intend to continue our conservative strategy of maintaining financial flexibility and investing in long-term growth opportunities for the Company.

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RESULTS OF OPERATIONS - Continuing Operations

SALES:

Changes in sales are driven by two primary components:

- (i) changes to selling prices, which are largely controlled by our product suppliers, and excise taxes imposed on cigarettes and tobacco products by various states; and
- (ii) changes in the volume of products sold to our customers, either due to a change in purchasing patterns resulting from consumer preferences or the fluctuation in the comparable number of business days in our reporting period.

Sales by business segment for the three month period ended December 2008 and December 2007 are as follows (dollars in millions):

| | Three months ended December | | |
|--------------------------------|--------------------------------|----------|----------------|
| | 2008 | 2007 | Incr (Decr) |
| | ----- | ----- | ----- |
| Wholesale distribution segment | \$ 208.4 | \$ 201.2 | \$ 7.2 |
| Retail health food segment | 9.0 | 9.5 | (0.5) |
| | ----- | ----- | ----- |
| | \$ 217.4 | \$ 210.7 | \$ 6.7 |
| | ===== | ===== | ===== |

SALES - Q1 2009 vs. Q1 2008 (continuing operations)

Sales for Q1 2009 increased \$6.7 million, or 3.2%, as compared to Q1 2008. Sales are reported net of costs associated with sales incentives provided to retailers, totaling \$3.8 million in Q1 2009 and \$3.6 million in Q1 2008.

Sales in our wholesale distribution segment ("wholesale") increased \$7.2 million, or 3.6%, in Q1 2009 as compared to Q1 2008. This change included a \$2.6 million increase in cigarette sales and a net \$4.6 million increase in our tobacco, beverages, snacks, candy, grocery, health & beauty products, automotive, food service, and store supplies categories ("Other Products").

Significant items impacting our Q1 2009 wholesale segment sales included:

- \$2.6 million increase in cigarette sales over Q1 2008, primarily due to price increases implemented by major manufacturers. /1/
- \$4.6 million net increase in our Other Products category sales over Q1 2008, primarily the result of higher tobacco, confectionary, food service, and store supplies sales.

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/1/ As price increases are passed on to our customers, they result in a corresponding increase in the cost of sales.

Sales in our retail health food segment decreased approximately \$0.5 million, or 5.7%, in Q1 2009 as compared to Q1 2008. This decrease was primarily related to lower sales volumes in our Florida retail stores, which have been impacted by a severe regional economic downturn and increased competition from other natural food chains.

GROSS PROFIT - Q1 2009 vs. Q1 2008 (continuing operations)

Our gross profit does not include fulfillment costs and costs related to the distribution network which are included in selling, general and administrative costs, and may not be comparable to those of other entities. Some entities may classify such costs as a component of cost of sales.

Cost of sales, a component used in determining gross profit, for the wholesale and retail segments includes the cost of products purchased from manufacturers, less incentives we receive which are netted against such costs.

Gross profit by business segment for the three month period ended December 2008 and December 2007 are as follows (dollars in millions):

| | Three months ended December | | |
|--------------------------------|--------------------------------|---------|----------------|
| | 2008 | 2007 | Incr (Decr) |
| Wholesale distribution segment | \$ 12.2 | \$ 11.3 | \$ 0.9 |
| Retail health food segment | 3.6 | 3.9 | (0.3) |
| | \$ 15.8 | \$ 15.2 | \$ 0.6 |

GROSS PROFIT - Q1 2009 vs. Q1 2008 (continuing operations)

Overall gross profit for Q1 2009 increased \$0.6 million, or 4.3%, as compared to Q1 2008.

Gross profit in our wholesale segment increased \$0.9 million, or 8.0%, as compared to the same prior year period. This increase is primarily the result of higher sales volume in our Other Product categories.

Gross profit for the retail health segment decreased \$0.3 million in Q1 2009 as compared to Q1 2008. Of this decrease, approximately \$0.2 million related

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to lower sales volume, with the remaining change attributable to sales mix and higher throw-out costs.

OPERATING EXPENSE - Q1 2009 vs. Q1 2008

Operating expense includes selling, general and administrative expenses and depreciation and amortization. Selling, general and administrative include costs related to our sales, warehouse, delivery and administrative departments for all segments. Specifically, purchasing and receiving costs, warehousing costs and costs of picking and loading customer orders are all classified as selling, general and administrative expenses. Our most significant expenses relate to employee costs, facility and equipment leases, transportation costs, fuel costs, insurance and professional fees.

Q1 2009 operating expenses increased approximately \$0.5 million as compared to Q1 2008. Significant items impacting operating expenses included a \$0.3 million increase in insurance costs and a \$0.2 million increase in compensation costs.

INTEREST EXPENSE - Q1 2009 vs. Q1 2008

Q1 2009 interest expense decreased approximately \$0.5 million as compared to Q1 2008. The decrease in interest expense was principally related to lower prime interest rates and lower average borrowings.

The Company primarily borrows at the prime interest rate. On average, the Company's borrowing rates on its revolving credit facility were 3.47% lower and our average borrowings the revolving credit facility were \$6.3 million lower in Q1 2009 as compared to Q1 2008.

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DISCONTINUED OPERATIONS - Q1 2009 vs. Q1 2008

Losses from discontinued operations are primarily the result of interest charges on debt and costs incurred to preserve assets. The Company recorded a loss from discontinued operations of \$0.1 million in both Q1 2009 and Q1 2008.

| | Q1 2009 | Q1 2008 |
|-----------------------------------|-----------|-----------|
| | ----- | ----- |
| Operating loss | (44,129) | (39,245) |
| Interest expense | (116,009) | (115,750) |
| Income tax benefit | (58,000) | (59,000) |
| Loss from discontinued operations | (102,038) | (95,995) |

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LIQUIDITY AND CAPITAL RESOURCES

Overview

Operating Activities. The Company requires cash to pay operating expenses, purchase inventory, and make capital investments. In general, the Company finances its cash flow requirements with cash generated from operating activities and credit facility borrowings. During Q1 2009, the Company generated cash of approximately \$8.3 million from operating activities. The cash generated primarily resulted from higher overall earnings, a decrease in accounts receivable, inventory, and prepaid assets balances, and an increase accounts payable balances. These items were partially offset by a reduction in accrued expenses.

Our variability in cash flows from operating activities is dependent on the timing of inventory purchases and seasonal fluctuations. For example, periodically we have inventory "buy-in" opportunities which offer more favorable pricing terms. As a result, we may have to hold inventory for a period longer than the payment terms. This generates a cash outflow from operating activities which we expect to reverse in later periods. Additionally, during the warm weather months, which is our peak time of operations, we generally carry higher amounts of inventory to ensure high fill rates and maintain customer satisfaction.

Investing Activities. The Company used approximately \$0.2 million of cash Q1 2009 for investing activities, primarily related to capital expenditures for property and equipment.

Financing Activities. The Company used cash of \$8.2 million for financing activities during Q1 2009. Of this amount, \$7.9 million related to net payments on the Company's credit facility, \$0.2 million related to principal payments on long-term debt, and \$0.1 million related to dividends on the Company's common and preferred stock.

Cash on Hand/Working Capital. At December 2008, the Company had cash on hand of \$0.4 million and working capital (current assets less current liabilities) of \$31.2 million. This compares to cash on hand of \$0.5 million and working capital of \$38.9 million at September 2008.

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CREDIT AGREEMENT

The Company has a credit agreement with Bank of America (the "Facility"), which includes the following significant terms:

- A June 30, 2011 maturity date.
- A \$55.0 million revolving credit limit, plus the outstanding balance on Term Note A. Term Note A had an outstanding balance of \$0.3 million at December 31, 2008.
- The Facility bears interest at either the bank's prime rate or at a LIBOR based rate at the election of the Company.
- The Facility provides for an additional \$5.0 million of credit available for certain inventory purchases. These advances bear interest at the bank's prime rate plus one-quarter of one-percent (1/4%) per annum and are payable within 45 days of each advance.

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- Lending limits subject to accounts receivable and inventory limitations, and an unused commitment fee equal to one-quarter of one percent (1/4%) per annum on the difference between the maximum loan limit and average monthly borrowings.
- Collateral including all of the Company's equipment, intangibles, inventories, and accounts receivable.
- Provides that the Company may not pay dividends on its common stock in excess of \$0.72 per share on an annual basis.
- The Facility includes a prepayment penalty equal to a predetermined percentage of the original maximum loan limit of \$60.4 million if the Company prepays the entire Facility and terminates the credit agreement before specified dates. The prepayment penalty percentages are as follows: (1) one percent (1%) if prepayment occurs on or before June 30, 2009, and (2) one-half of one percent (1/2%) if prepayment occurs subsequent to June 30, 2009 but on or before June 30, 2010.

The Facility also includes quarterly debt service and cumulative earnings before interest, taxes, depreciation and amortization ("EBITDA") financial covenants. A minimum debt service ratio of 1.0 to 1.0 must be maintained, as measured by the twelve month period then ended. The cumulative minimum EBITDA requirements are as follows:

- (a) \$1,000,000 for the three months ending December 31, 2008 and;
- (b) \$2,000,000 for the six months ending March 31, 2009

The Company was in compliance with the required debt service and minimum EBITDA covenants at December 2008.

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The Company's maximum available credit limit for the revolving portion of the Facility was \$49.5 million at December 2008, however, the amount available for use at any given time is subject to many factors including eligible accounts receivable and inventory balances which are evaluated on a daily basis.

At December 2008, the outstanding balance on the revolving portion of the Facility was \$27.0 million. The Facility bears interest at a variable rate equal to the bank's prime rate, which was 3.25% at December 2008. Based on our collateral and loan limits as defined by the Facility agreement, the Company's excess availability under the Facility at December 2008 was approximately \$22.5 million.

During Q1 2009, our peak borrowings under the Facility were \$37.7 million and our average borrowings and average availability were \$32.6 and \$18.3 million, respectively. Our availability to borrow under the Facility generally decreases as inventory and accounts receivable levels go up because of the borrowing limitations that are placed on collateralized assets.

As part of the July 2007 Television Events & Marketing, Inc. ("TEAM") litigation settlement, the Company became obligated to pay \$46,875 in quarterly installments through October 2010 and \$31,250 in quarterly

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installments thereafter through October 2011. Mr. Wright has personally guaranteed these payment obligations, which totaled approximately \$0.4 million at December 2008. AMCON pays Mr. Wright an annual fee equal to 2% of the guaranteed principal in return for his personal guarantee. This guarantee is secured by a pledge of the Company's shares of Chamberlin's, Akin's, HNWC, and TSI.

Cross Default and Co-Terminus Provisions

The Company's owned real estate in Bismarck, ND, Quincy, IL, and Rapid City, SD, and certain warehouse equipment in the Rapid City, SD warehouse is financed through term loans with Marshall and Ilsley Bank ("M&I"), which is also a participant lender on the Company's revolving line of credit. The M&I loans contain cross default provisions which cause all loans with M&I to be considered in default if any one of the loans where M&I is a lender, including the revolving credit facility, is in default. In addition, the M&I loans contain co-terminus provisions which require all loans with M&I to be paid in full if any of the loans are paid in full prior to the end of their specified terms.

TSI Financing

As previously disclosed, TSI has approximately \$2.8 million in related party debt obligations, which were in default at December 2008. TSI has not obtained associated debt default waivers for these related party obligations. At this time, the Company does not anticipate the defaults will materially impact its future liquidity position.

OTHER

AMCON has issued a letter of credit for \$0.8 million to its workers' compensation insurance carrier as part of its self-insured loss control program.

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Dividend Payments

During Q1 2009, the Company paid cash dividends of \$0.10 per common share, totaling \$57,039. The Company paid no dividends on its common stock during Q1 2008.

The Company has issued Series A, B and C Convertible Preferred Stock ("Convertible Preferred Stock"), which are not registered under the Securities and Exchange Act of 1934. The Company paid cash dividends on Convertible Preferred Stock totaling \$105,533 in both Q1 2009 and Q1 2008. See Note 3 to the condensed consolidated unaudited financial statements included in this Quarterly Report for further information regarding these securities.

Contractual Obligations

There have been no significant changes to the Company's contractual obligations as set forth in the Company's Form 10-K for the fiscal period ended September 30, 2008.

Off-Balance Sheet Arrangements

The Company does not have any off-balance sheet arrangements.

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Liquidity Risk

The Company's liquidity position is significantly influenced by its ability to obtain sufficient levels of working capital. For our Company and industry in general, customer credit risk and continuing access to bank credit (primarily for the purpose of funding inventory purchases and the lag period on accounts receivable collections) are important factors impacting our overall liquidity position.

The Company renewed its credit facility with Bank of America in July 2008 and believes it continues to have a strong working relationship with that financial institution. Additionally, the Company was in compliance with all debt covenants as of December 2008. Our customers, many of whom are thinly capitalized, do present credit risk. The Company, however, aggressively monitors its exposure in this area and believes it had adequate reserves in place at December 2008.

The Company does not currently hedge its exposure to interest rate risk or fuel costs. Accordingly, significant price movements in these areas can and do impact the Company's profitability.

Based on these considerations, the Company believes its liquidity position going forward will be adequate to sustain operations and fund future growth. However, as recent events in the financial markets have demonstrated, dramatic shifts in market conditions could materially impact the Company's ability to collect on customer accounts receivable balances and/or secure bank credit. A continued steep deterioration in market conditions could materially impact our liquidity position.

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Factors That Could Affect Future Results

Wholesale Segment - The wholesale distribution industry continues to experience a decline in the demand for cigarettes, resulting in part from legislative actions such as higher excise taxes and smoking bans, as well as a general decline in the number of smokers in the United States. In January 2009, the United States House of Representatives passed legislation which would significantly increase the federal excise taxes imposed on cigarette and tobacco products to fund the State Children's Health Insurance Program ("SCHIP"). If such legislation is eventually signed into law, it will further accelerate the declining demand for cigarettes and tobacco products. In Q1 2009, sales of cigarette products accounted for approximately 70% of the Company's consolidated sales and approximately 22% of its consolidated gross profit.

Slumping economic conditions, disruptions in the credit markets, and increasing credit card fees have negatively impacted profit margins for many of our customers. Collectively, these items have created a challenging business environment for convenience stores, our largest customer segment.

In the short term, we believe the aforementioned items will pressure future wholesale profits. We do not, however, believe such items will materially impact our liquidity position. While these market conditions present risks, we believe that on a long-term basis, they provide opportunities to enhance shareholder value as smaller distributors are forced from the market creating opportunities for us to win market share and complete strategic acquisitions

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at more attractive prices.

Retail Health Food Segment - While we enjoy a loyal customer following in this business segment, weak economic conditions combined with higher natural food costs and increased competition may decrease both future sales and gross profit margins.

Item 3. Quantitative and Qualitative Disclosures About Market Risk.

Not applicable.

Item 4T. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

Disclosure controls and procedures are controls and other procedures that are designed to ensure that information required to be disclosed in company reports filed or submitted under the Securities Exchange Act of 1934 (the "Exchange Act") is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed in company reports filed or submitted under the Exchange Act is accumulated and communicated to management, including our principal executive officer and principal financial and accounting officer, as appropriate to allow timely decisions regarding required disclosure.

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As required by Rules 13a-15(e) and 15d-15(e) under the Exchange Act, an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures as of December 31, 2008 was made under the supervision and with the participation of our senior management, including our principal executive officer and principal financial officer. Based upon that evaluation, our principal executive officer and principal financial and accounting officer concluded that our disclosure controls and procedures were effective as of the end of the period covered by this report.

Limitations on Effectiveness of Controls

Our management, including our Chief Executive Officer and Chief Financial Officer, do not expect that our disclosure controls and procedures will prevent all errors and fraud. In designing and evaluating the disclosure controls and procedures, management recognized that any controls and procedures, no matter how well designed and operated, can provide only reasonable, not absolute, assurance of achieving the desired control objectives. Further, the design of a control system must reflect the fact that there are resource constraints, and management necessarily was required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, within the Company have been detected. These inherent limitations include the realities that judgments in decision-making can be faulty, and that breakdowns can occur because of simple error or mistake. Additionally, controls can be circumvented by the individual acts of some persons, by collusion of two or more people, or by management's override of the control. The design of any system of controls also is based in part upon certain assumptions about the likelihood of future

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events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions. Over time, controls may become inadequate because of changes in conditions, or the degree of compliance with the policies or procedures may deteriorate. Because of the inherent limitations in a cost-effective control system, misstatements due to error or fraud may occur and not be detected.

Changes in Internal Control Over Financial Reporting

There were no changes in our internal control over financial reporting that occurred during the quarter ended December 31, 2008, that materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II - OTHER INFORMATION

Item 1. Legal Proceedings

Information with respect to this item may be found in Note 11 to the condensed consolidated unaudited financial statements in Item 1, which is incorporated herein by reference and supplements the information provided or referred to in Item 3 of the Company's Form 10-K for the fiscal year ended September 30, 2008.

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Item 1A. Risk Factors

There have been no material changes to the Company's risk factors as previously disclosed in Item 1A "Risk Factors" on Form 10-K for the fiscal year ended September 30, 2008.

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

Not applicable.

Item 3. Defaults Upon Senior Securities

Not Applicable

Item 4. Submission of Matters to a Vote of Security Holders

Not Applicable

Item 5. Other Information

Not applicable.

Item 6. Exhibits

(a) Exhibits

10.1 Eleventh Amendment to the Amended and Restated Loan and Security Agreement, dated January 15, 2009

31.1 Certification by Christopher H. Atayan, Chief Executive Officer and Chairman, furnished pursuant to section 302 of the

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Sarbanes-Oxley Act

- 31.2 Certification by Andrew C. Plummer, Vice President, Chief Financial Officer, and Principal Financial Officer furnished pursuant to section 302 of the Sarbanes-Oxley Act
- 32.1 Certification by Christopher H. Atayan, Chief Executive Officer and Chairman, furnished pursuant to section 906 of the Sarbanes-Oxley Act
- 32.2 Certification by Andrew C. Plummer, Vice President, Chief Financial Officer, and Principal Financial Officer furnished pursuant to section 906 of the Sarbanes-Oxley Act

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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.

AMCON DISTRIBUTING COMPANY
(registrant)

Date: January 16, 2009 /s/ Christopher H. Atayan

Christopher H. Atayan,
Chief Executive Officer and Chairman

Date: January 16, 2009 /s/ Andrew C. Plummer

Andrew C. Plummer, Vice President,
Chief Financial Officer, and
Principal Financial Officer

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