AMCON DISTRIBUTING CO
Form 10-Q
July 18, 2014
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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 June 30, 2014

OR

o 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

(Exact name of registrant as specified in its charter)

Delaware (State or other jurisdiction of incorporation or organization)	**47-0702918** (I.R.S. Employer Identification No.)
7405 Irvington Road, Omaha NE (Address of principal executive offices)	**68122** (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 o

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files) Yes x No o

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 o	Accelerated filer o	Non-accelerated filer o (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 o No x

The Registrant had 602,602 shares of its $.01 par value common stock outstanding as of July 14, 2014.

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3rd Quarter

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PART I FINANCIAL INFORMATION

Item 1. Financial Statements

AMCON Distributing Company and Subsidiaries

Condensed Consolidated Balance Sheets

June 30, 2014 and September 30, 2013

	June 2014 (Unaudited)	September 2013
ASSETS		
Current assets:		
Cash	$ 333,751	$ 275,036
Accounts receivable, less allowance for doubtful accounts of $1.2 million and $1.1 million at June 2014 and September 2013, respectively	29,699,236	28,383,205
Inventories, net	48,639,828	46,125,187
Deferred income taxes	1,652,702	1,831,933
Prepaid and other current assets	7,050,381	5,001,992
Total current assets	87,375,898	81,617,353
Property and equipment, net	13,944,111	13,088,859
Goodwill	6,349,827	6,349,827
Other intangible assets, net	4,547,228	4,820,978
Other assets	465,990	497,882
	$ 112,683,054	$ 106,374,899
LIABILITIES AND SHAREHOLDERS EQUITY		
Current liabilities:		
Accounts payable	$ 16,447,785	$ 15,859,636
Accrued expenses	7,114,393	6,714,444
Accrued wages, salaries and bonuses	3,105,187	2,754,136
Income taxes payable	332,604	1,922,351
Current maturities of long-term debt	338,595	998,788
Total current liabilities	27,338,564	28,249,355
Credit facility	21,164,401	14,841,712
Deferred income taxes	3,569,713	3,327,010
Long-term debt, less current maturities	3,821,735	4,076,892
Other long-term liabilities	141,014	239,396
Series A cumulative, convertible preferred stock, $.01 par value 100,000 shares authorized and issued, and a total liquidation preference of $2.5 million at both June 2014 and September 2013	2,500,000	2,500,000
Series B cumulative, convertible preferred stock, $.01 par value 80,000 shares authorized, 16,000 shares issued and outstanding at both June 2014 and September 2013, and a total liquidation preference of $0.4 million at both June 2014 and September 2013	400,000	400,000
Shareholders equity:		

Preferred stock, $.01 par value, 1,000,000 shares authorized, 116,000 shares outstanding and issued in Series A and B referred to above				
Common stock, $.01 par value, 3,000,000 shares authorized, 602,602 shares outstanding at June 2014 and 623,115 shares outstanding at September 2013		6,677		6,543
Additional paid-in capital		13,577,433		12,502,135
Retained earnings		46,112,791		43,532,812
Treasury stock at cost		(5,949,274)		(3,300,956)
Total shareholders equity		53,747,627		52,740,534
	$	112,683,054	$	106,374,899

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 and nine months ended June 30, 2014 and 2013

	For the three months ended June		For the nine months ended June	
	2014	**2013**	**2014**	**2013**
Sales (including excise taxes of $100.4 million and $100.2 million, and $283.5 million and $285.4 million, respectively)	$ 322,647,624	$ 316,031,197	$ 900,694,969	$ 892,817,669
Cost of sales	303,353,020	296,220,406	844,139,340	835,480,069
Gross profit	19,294,604	19,810,791	56,555,629	57,337,600
Selling, general and administrative expenses	16,295,082	16,065,285	48,599,519	47,351,952
Depreciation and amortization	557,736	598,061	1,810,610	1,791,708
	16,852,818	16,663,346	50,410,129	49,143,660
Operating income	2,441,786	3,147,445	6,145,500	8,193,940

Other expense (income):	279,470	241,033	31,854[7]	1,018,121			
Chief Creative Officer							
Kimberly F. Colby	2012	391,882		227,397	202,799	*	822,078
Executive Vice President Design	2011	376,426	572,665	1,534,600	275,732	*	2,767,528
	2010	358,961			268,514	10,300[5]	637,775
Matthew C. Wojewuczki	2012	365,748		210,522	189,275	*	765,545
Executive Vice President Operations	2011	343,356	572,665	1,533,800	251,508	*	2,709,654

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* Total value less than $10,000.
(1) Represents cash bonuses paid to reimburse each named executive officer for the required tax withholding obligation upon filing a Section 83(b) election with respect to restricted stock awarded during the fiscal year.
(2) Represents the aggregate grant date fair value of restricted stock and restricted stock units awarded during the fiscal year. The grant date fair value of each individual award of restricted stock and restricted stock units is set forth in the Fiscal 2012 Grants of Plan-Based Awards table below. Additional information regarding the calculation of these values is included in Notes 2 and 10 to our consolidated financial statements.
(3) Represents annual incentive compensation paid under the Company s Annual Incentive Bonus Program.
(4) Payments of cash bonuses to reimburse each named executive officer for the required tax withholding obligation with respect to restricted stock awarded during the fiscal year are reported in the Bonus column.
(5) Represents 401(k) matching contributions made by the Company of $8,250 for each of Mr. Ray and Ms. Colby, and reimbursement of tax planning services of $3,550 for Mr. Ray and $2,050 for Ms. Colby.
(6) Mr. Blade was hired by the Company on April 29, 2010. The amount reported as All Other Compensation represents relocation expenses paid to Mr. Blade in connection with his employment with the Company.
(7) Represents 401(k) matching contributions made by the Company of $11,010, lease payment for automobile of $10,864, and other taxable fringe benefits with a total value less than $10,000.

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Fiscal 2012 Grants of Plan-Based Awards

The following table sets forth information regarding grants of plan-based awards in fiscal 2012.

			Estimated Future Payouts Under Non-Equity Incentive Plan Awards[1]			All Other Stock Awards[2]	
	Type of Award	Grant Date	Threshold	Target	Maximum	Number of Shares or Units (#)	Grant Date Fair Value of Stock Awards[3]
Michael C. Ray	Annual Incentive		$ 172,019	$ 344,037	$ 516,056		
	RSUs	March 29, 2011				16,623	$ 687,527
Jeffrey A. Blade	Annual Incentive		89,064	178,128	267,191		
	RSUs	March 29, 2011				4,570	189,015
Barbara Bradley Baekgaard	Annual Incentive		116,441	232,882	349,323		
	RSUs	March 29, 2011				6,757	279,470
Kimberly F. Colby	Annual Incentive		97,971	195,941	293,912		
	RSUs	March 29, 2011				5,498	227,397
Matthew C. Wojewuczki	Annual Incentive		91,437	182,874	274,311		
	RSUs	March 29, 2011				5,090	210,522

(1) Awards made under the Company s Annual Incentive Bonus Program. Actual amounts earned under the program are disclosed in the Non-Equity Incentive Plan Compensation column of the Summary Compensation Table.

(2) Awards made under the 2010 Plan to certain employees and directors, including our named executive officers. RSUs vest in three equal annual installments on the first, second and third anniversaries of the grant date. In addition, vesting would be accelerated in the event of death, disability or a termination of employment in connection with a change in control. See Potential Payments on Termination or Change in Control. If the Company were to declare any cash dividend on its common shares, an equivalent amount per RSU would be credited to an account for each holder and paid to the holder in cash (or forfeited) at the time the shares underlying the RSU are delivered to the holder (or forfeited). Amounts in this account would bear interest at the prime rate reported in the Midwest Edition of The Wall Street Journal from the date of deposit until paid to the holder or forfeited in accordance with the 2010 Plan.

(3) Represents the grant date fair value of each award.

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Outstanding Equity Awards at 2012 Fiscal Year-End

The following table sets for the information regarding outstanding equity awards as of January 28, 2012.

	Stock Awards	
	Number of Shares or Units that Have Not Vested (#)	Market Value of Shares or Units that Have Not Vested[3]
Michael C. Ray	16,623[1]	$ 570,668
	100[2]	3,433
Jeffrey A. Blade	4,570[1]	156,888
	50[2]	1,717
Barbara Bradley Baekgaard	6,757[1]	231,968
	100[2]	3,433
Kimberly F. Colby	5,498[1]	188,746
	100[2]	3,433
Matthew C. Wojewuczki	5,090[1]	174,739
	50[2]	1,717

(1) Represents grants of restricted stock units made on March 29, 2011 under the 2010 Plan. These restricted stock units will vest in three equal annual installments on the first, second and third anniversaries of the grant date. In addition, vesting would be accelerated in the event of death, disability, or termination of employment in connection with a change in control. See Potential Payments on Termination or Change in Control .

(2) Represents grants of restricted stock units made on October 21, 2010 in connection with our initial public offering. The number of restricted stock units awarded to each employee was determined based upon the employee s years of service with the Company. These units vest on October 21, 2012.

(3) Based on the closing price of $34.33 of the Company s common shares on January 27, 2012 (the last trading day prior to the end of the fiscal year) as reported by The NASDAQ Stock Market.

Fiscal 2012 Option Exercises and Shares Vested

We have no outstanding stock options. None of the outstanding equity awards to our named executive officers vested during fiscal 2012.

Fiscal 2012 Pension Benefits

Aside from our 401(k) plan, we do not maintain any pension plan or arrangement under which our named executive officers are entitled to participate or receive post-retirement benefits.

Fiscal 2012 Nonqualified Deferred Compensation

We do not maintain any nonqualified deferred compensation plan or arrangements under which our named executive officers are entitled to participate.

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Potential Payments Upon Termination or Change in Control

Our named executive officers (other than Mr. Blade) are not specifically entitled to any severance payments upon termination of employment or upon a change in control. Severance arrangements with executives have typically been determined on a case-by-case basis in the past. However, we maintain an informal general severance policy that provides all employees, including our named executive officers, with one week of pay for each year of service with the Company, with a minimum total payment of two weeks pay, in the event of an involuntary termination of the employee by the Company. Mr. Blade s offer letter provides that, in the event he is terminated by us without just cause (as defined in his offer letter), he will be entitled to a severance payment equal to one year s base salary and a pro-rata bonus for the portion of the year prior to his termination, to the extent that a bonus would be payable for the year based on company performance. The following table shows the value of severance benefits that would have been payable in a lump sum to each of our named executive officers under this formula, assuming an involuntary termination of employment, other than for good cause, as of January 28, 2012:

Name	Severance
Michael C. Ray	$ 144,112
Jeffrey A. Blade	548,205
Barbara Bradley Baekgaard	268,710
Kimberly F. Colby	174,076
Matthew C. Wojewuczki	56,568

The foregoing amounts would not be increased or decreased solely by reason of a change in control of the Company.

Under the 2010 Plan, any unvested restricted stock units held by a named executive officer would vest upon the named executive officer s disability (as defined in the 2010 Plan) or death while employed by the Company and upon the later of (a) the occurrence of a change in control (as defined in the 2010 Plan), and (b) the termination of the named executive officer s employment by the Company other than for cause (as defined in the 2010 Plan) during the time period beginning three months prior to the public announcement of a proposed change in control and ending twelve months after a change in control. Information regarding the number and dollar value of unvested restricted stock units that would have vested January 28, 2012 for each named executive officer if his or her employment with the Company had been terminated by reason of death, disability or termination of employment by the Company during the period described above prior to or after a change in control of the Company is set forth in the table under Outstanding Equity Awards at 2012 Fiscal Year-End , above.

The 2010 Plan defines a change in control to mean the occurrence of any one or more of the following: (a) the acquisition of ownership, directly or indirectly, beneficially or of record, by any Person or group (within the meaning of the Exchange Act and the rules of the Securities and Exchange Commission as in effect on the date of the award), other than (i) Barbara Baekgaard, Patricia Miller, Jill Nichols, Michael Ray and Kim Colby and their respective heirs and descendants and any trust established for their benefit, (ii) the Company or a corporation owned directly or indirectly by the shareholders of the Company in substantially the same proportions as their ownership of stock of the Company, or (iii) any employee benefit plan (or related trust) sponsored or maintained by the Company or any of its affiliates, of securities of the Company representing more than twenty-five percent (25%) of the combined voting power of the Company s then outstanding securities; (b) the occupation of a majority of the seats (other than vacant seats) on the board of directors by persons who were neither (i) nominated by the board nor (ii) appointed by directors so nominated; or (c) the consummation of (i) an agreement for the sale or disposition of all or substantially all of the Company s assets, or (ii) a merger, consolidation or reorganization of the Company with or involving any other corporation, other than a merger, consolidation or reorganization that results in the voting securities of the Company outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity) at least fifty percent (50%) of the combined voting power of the voting securities of the Company (or such surviving entity) outstanding immediately after such merger, consolidation or reorganization.

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The 2010 Plan provides that, in the absence of a definition in an employment agreement, (a) cause is defined as (i) theft or embezzlement, or attempted theft or embezzlement, of money or property of the Company or its affiliates, perpetration or attempted perpetration of fraud, or participation in a fraud or attempted fraud, on the Company or its affiliates, or unauthorized appropriation of, or attempt to misappropriate, any tangible or intangible assets or property of the Company or its affiliates; (ii) act or acts of disloyalty, moral turpitude, or material misconduct that is injurious to the interest, property, value, operations, business or reputation of the Company or its affiliates, or conviction of a crime that results in injury to the Company or its affiliates; or (iii) repeated refusal (other than by reason of disability) to carry out reasonable instructions from the named executive officer s superiors or the Board; in addition, the named executive officer s employment will be deemed to have terminated for cause if, after the named executive officer s employment has terminated, facts and circumstances are discovered that would have justified a termination for cause; and (b) disability means (i) any permanent physical or mental incapacity or disability rendering the named executive officer unable or unfit to perform effectively the duties and obligations of his or her office, or (ii) any illness, accident, injury, physical or mental incapacity or other disability, which condition is expected to be permanent or long-lasting and has rendered the named executive officer unable or unfit to perform effectively the duties and obligations of his or her office for a period of at least 180 days in any twelve-consecutive month period (in either case, as determined in the good faith judgment of the Committee).

Compensation and Risk

The Compensation Committee has, with the assistance of the compensation consultant, evaluated the risk profile of our compensation policies and practices and concluded that they do not motivate imprudent risk taking. In our evaluation, we reviewed our employee compensation structures and noted numerous factors and design elements that manage and mitigate risk without diminishing the incentive nature of the compensation, including a unique and strong company culture that attracts passionate and motivated employees who are excited about our products and our brand (as opposed to being motivated by purely financial considerations); a balanced mix between cash and equity and annual and longer-term incentives under our executive compensation program; the large percentage ownership of our shares by senior management, which ensures that their interests are aligned with the long-term interests of the Company and our shareholders; reasonable limits on annual incentive awards (as determined by a review of our current business plan); with respect to annual incentive awards, a balanced mix of performance measures, linear payouts between target levels and maximum payouts capped at 150% of target for fiscal 2012; and subjective considerations (including a review of individual performance) and discretion in compensation decisions, which limit the influence of formulae or objective factors on excessive risk taking.

We also reviewed our compensation programs for certain design features that may have the potential to encourage excessive risk-taking, including over-weighting towards annual incentives, highly leveraged payout curves, unreasonable thresholds, and steep payout cliffs at certain performance levels that may encourage short-term business decisions to meet payout thresholds. We concluded that our compensation programs do not include such elements. In addition, we analyzed our overall enterprise risks and how compensation programs may impact individual behavior in a manner that could exacerbate these enterprise risks. In view of these analyses, we concluded that we have a balanced pay and performance program that does not encourage excessive risk-taking that is reasonably likely to have a material adverse effect on the Company.

2010 Equity and Incentive Plan

In connection with our initial public offering, we approved the Vera Bradley, Inc. 2010 Equity and Incentive Plan (referred to herein as the 2010 Plan). The principal purposes of the 2010 Plan are to optimize the profitability and growth of the Company through short-term and long-term incentives that are consistent with the Company s objectives and that link participants interests to those of the Company s shareholders; to give participants an incentive for excellence in individual performance; to promote teamwork among participants; and to give the Company a significant advantage in attracting and retaining key employees, directors, and consultants. Our 2010 Plan provides for the grant of incentive stock options within the meaning of Section 422 of the Internal Revenue Code, nonqualified stock options, stock appreciation rights, restricted stock, restricted stock units, performance based awards (including performance shares, performance units and annual performance bonus awards), and other stock or cash-based awards. There were 5,751,285 common shares, in the aggregate, available for awards under the 2010 Plan as of April 16, 2012.

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PART IV

Item 15. Exhibits, Financial Statement Schedules

List of Exhibits

The exhibits listed in the accompanying index to exhibits are filed or incorporated by reference as part of this Amendment No. 1 to Form 10-K/A.

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SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, on January 15, 2013.

Vera Bradley, Inc.

/s/ Kevin J. Sierks
Kevin J. Sierks
Vice President Controller, Chief Accounting Officer and
Interim Chief Financial Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of Registrant and in the capacities indicated on January 15, 2013.

Signature	Title
/s/ Michael C. Ray Michael C. Ray	Director and Chief Executive Officer (principal executive officer)
/s/ Kevin J. Sierks Kevin J. Sierks	Vice President Controller, Chief Accounting Officer and Interim Chief Financial Officer

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EXHIBIT INDEX

Exhibit No.	Description
31.1*	Rule 13a-14(a)/15d-4(a) Certification of Principal Executive Officer
31.2*	Rule 13a-14(a)/15d-14(a) Certification of Principal Financial Officer
32.1*	Section 1350 Certifications

* Filed herewith

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