Dolan Media CO
Form 10-Q
August 07, 2009

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

þ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the Quarterly Period Ended: June 30, 2009

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: 001-33603

Dolan Media Company

(Exact name of registrant as specified in its charter)

Delaware	**43-2004527**
(State or other jurisdiction of incorporation or organization)	*(I.R.S. Employer Identification No.)*

222 South Ninth Street, Suite 2300,
Minneapolis, Minnesota 55402
(Address, including zip code of registrant s principal executive offices)

(612) 317-9420
Registrant s telephone number, including area code

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 þ 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 o 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 definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer o	Accelerated filer þ	Non-accelerated filer o	Smaller reporting company o

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes o No þ

On August 5, 2009, there were 30,080,425 shares of the registrant s common stock outstanding.

Section 906 Certification of Vicki J. Duncomb

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PART I FINANCIAL INFORMATION

Item 1. Financial Statements

Dolan Media Company
Condensed Consolidated Balance Sheets
(in thousands, except share data)

	June 30, 2009 (unaudited)	December 31, 2008
ASSETS		
Current assets		
Cash and cash equivalents	$ 16,048	$ 2,456
Accounts receivable, including unbilled services (net of allowances for doubtful accounts of $964 and $1,398 as of June 30, 2009 and December 31, 2008, respectively)	51,827	38,776
Unbilled pass-through costs	12,684	7,164
Prepaid expenses and other current assets	2,299	4,881
Deferred income taxes	397	397
Total current assets	83,255	53,674
Investments	16,356	17,126
Property and equipment, net	18,861	21,438
Finite-life intangible assets, net	246,948	254,917
Goodwill	117,961	118,983
Other assets	4,510	5,166
Total assets	$ 487,891	$ 471,304
LIABILITIES AND STOCKHOLDERS EQUITY		
Current liabilities		
Current portion of long-term debt	$ 11,900	$ 12,048
Accounts payable	7,055	9,116
Accrued pass-through liabilities	25,073	21,598
Accrued compensation	6,848	7,673
Accrued liabilities	5,898	2,738
Due to sellers of acquired businesses		75
Deferred revenue	14,540	13,014
Total current liabilities	71,314	66,262
Long-term debt, less current portion	137,225	143,450
Deferred income taxes	13,505	18,266
Deferred revenue and other liabilities	4,696	5,136
Total liabilities	226,740	233,114
Redeemable noncontrolling interest	28,009	15,760
Commitments and contingencies (Note 13)		

Stockholders equity				
Common stock, $0.001 par value; authorized: 70,000,000 shares; outstanding: 30,081,017 and 29,955,018 shares as of June 30, 2009 and December 31, 2008, respectively		30		30
Preferred stock, $0.001 par value; authorized: 5,000,000 shares; designated: 5,000 shares of Series A Junior Participating Preferred Stock; no shares outstanding				
Additional paid-in capital		285,169		291,310
Accumulated deficit		(52,057)		(68,910)
Total stockholders equity		233,142		222,430
Total liabilities and stockholders equity	$	487,891	$	471,304

See Notes to Unaudited Condensed Consolidated Interim Financial Statements

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Dolan Media Company
Unaudited Condensed Consolidated Statements of Operations
(in thousands, except share and per share data)

	Three Months Ended June 30, 2009	Three Months Ended June 30, 2008	Six Months Ended June 30, 2009	Six Months Ended June 30, 2008
Revenues				
Professional Services	$ 44,294	$ 18,129	$ 86,326	$ 36,869
Business Information	22,746	23,424	44,650	46,196
Total revenues	67,040	41,553	130,976	83,065
Operating expenses				
Direct operating: Professional Services	15,682	6,436	31,140	12,747
Direct operating: Business Information	7,425	8,152	14,875	15,724
Selling, general and administrative	22,427	16,732	43,163	32,836
Amortization	4,171	2,318	9,295	4,536
Depreciation	2,351	1,190	4,474	2,291
Total operating expenses	52,056	34,828	102,947	68,134
Equity in earnings of The Detroit Legal News Publishing, LLC	1,333	1,469	2,730	3,026
Operating income	16,317	8,194	30,759	17,957
Non-operating income (expense)				
Interest expense, net of interest income	(1,728)	(1,464)	(3,698)	(2,760)
Non-cash interest income related to interest rate swaps	296	1,177	530	22
Other income		10	1,446	21
Total non-operating expense	(1,432)	(277)	(1,722)	(2,717)
Income before income taxes	14,885	7,917	29,037	15,240
Income tax expense	(5,361)	(3,027)	(9,678)	(5,786)
Net income	9,524	4,890	19,359	9,454
Less: Net income attributable to the redeemable noncontrolling interest	(1,318)	(493)	(2,506)	(1,050)
Net income attributable to Dolan Media Company	$ 8,206	$ 4,397	$ 16,853	$ 8,404
Earnings per share basic:				
Net income attributable to Dolan Media Company	$ 0.27	$ 0.18	$ 0.56	$ 0.34

Accretion of redeemable noncontrolling interest, net of tax, in conjunction with adoption of SFAS No. 160	(0.13)		(0.24)	
Net income attributable to Dolan Media Company common stockholders	$ 0.14	$ 0.18	$ 0.32	$ 0.34
Weighted average shares outstanding basic	29,815,405	24,936,360	29,810,590	24,936,183
Earnings per share diluted:				
Net income attributable to Dolan Media Company	$ 0.27	$ 0.17	$ 0.56	$ 0.33
Accretion of redeemable noncontrolling interest, net of tax, in conjunction with adoption of SFAS No. 160	(0.13)		(0.24)	
Net income attributable to Dolan Media Company common stockholders	$ 0.14	$ 0.17	$ 0.32	$ 0.33
Weighted average shares outstanding diluted	29,917,495	25,307,422	29,896,194	25,246,279

See Notes to Unaudited Condensed Consolidated Interim Financial Statements

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Dolan Media Company
Unaudited Condensed Consolidated Statements of Stockholders Equity
(in thousands, except share data)

	Common Stock Shares	Common Stock Amount	Additional Paid-In Capital	Accumulated Deficit	Total
Balance (deficit) at December 31, 2007	25,088,718	$ 25	$ 212,364	$ (83,213)	$ 129,176
Net income				14,303	14,303
Private placement of common stock, net of offering costs	4,000,000	4	60,483		60,487
Issuance of common stock in a business acquisition	825,528	1	16,460		16,461
Issuance of common stock pursuant to the exercise of stock options under the 2007 incentive compensation plan	8,089		21		21
Stock-based compensation expense, including issuance of restricted stock (shares are net of forfeitures)	32,683		1,918		1,918
Tax benefit on stock options exercised			64		64
Balance (deficit) at December 31, 2008	29,955,018	$ 30	$ 291,310	$ (68,910)	$ 222,430
Net income attributable to Dolan Media Company				16,853	16,853
Accretion of redeemable noncontrolling interest, net of tax			(7,293)		(7,293)
Net income attributable to Dolan Media Company common stockholders					9,560
Issuance of common stock pursuant to the exercise of stock options under the 2007 incentive compensation plan	5,033		7		7
Stock-based compensation expense, including issuance of restricted stock (shares are net of forfeitures)	120,966		1,145		1,145
Balance (deficit) at June 30, 2009	30,081,017	$ 30	$ 285,169	$ (52,057)	$ 233,142

See Notes to Unaudited Condensed Consolidated Interim Financial Statements

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Dolan Media Company
Unaudited Condensed Consolidated Statements of Cash Flows
(in thousands)

	Six Months Ended June 30, 2009	Six Months Ended June 30, 2008
Cash flows from operating activities		
Net income	$ 19,359	$ 9,454
Distributions received from The Detroit Legal News Publishing, LLC	3,500	3,500
Distributions paid to holders of noncontrolling interest	(2,311)	(909)
Non-cash operating activities:		
Amortization	9,295	4,536
Depreciation	4,474	2,291
Equity in earnings of The Detroit Legal News Publishing, LLC	(2,730)	(3,026)
Stock-based compensation expense	1,145	792
Change in value of interest rate swap and accretion of interest on note payable	(525)	81
Amortization of debt issuance costs	123	94
Change in accounting estimate related to self-insured medical reserve		(470)
Changes in operating assets and liabilities, net of effects of business acquisitions:		
Accounts receivable and unbilled pass-through costs	(18,571)	(4,461)
Prepaid expenses and other current assets	2,581	386
Other assets	18	17
Accounts payable and accrued liabilities	5,199	(2,910)
Deferred revenue	1,444	199
Net cash provided by operating activities	23,001	9,574
Cash flows from investing activities		
Acquisitions and investments	(1,426)	(19,176)
Pending acquisitions		(691)
Capital expenditures	(1,613)	(2,303)
Net cash used in investing activities	(3,039)	(22,170)
Cash flows from financing activities		
Net payments on senior revolving note		(9,000)
Proceeds from borrowings or conversions on senior term notes		25,000
Payments on senior long-term debt	(4,625)	(1,564)
Capital contribution from holder of noncontrolling interest		1,179
Payment on unsecured note payable	(1,750)	(1,750)
Proceeds from stock option exercises	7	
Other	(2)	
Net cash (used) provided by financing activities	(6,370)	13,865

Net increase in cash and cash equivalents	13,592	1,269
Cash and cash equivalents at beginning of the period	2,456	1,346
Cash and cash equivalents at end of the period	$ 16,048	$ 2,615

See Notes to Unaudited Condensed Consolidated Interim Financial Statements

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Notes to Unaudited Condensed Consolidated Interim Financial Statements

Note 1. Nature of Business and Significant Accounting Policies

***Basis of Presentation*:** The condensed consolidated balance sheet as of December 31, 2008, which has been derived from audited financial statements, and the unaudited condensed consolidated interim financial statements of Dolan Media Company (the Company) have been prepared in accordance with accounting principles generally accepted in the United States for interim financial information and the instructions to the quarterly report on Form 10-Q and Rule 10-01 of Regulation S-X. Certain information and footnote disclosures normally included in financial statements prepared in accordance with generally accepted accounting principles have been condensed or omitted pursuant to these rules and regulations. Accordingly, these unaudited condensed consolidated financial statements should be read in conjunction with the Company s audited consolidated financial statements and related notes for the year ended December 31, 2008 included in the Company s annual report on Form 10-K filed on March 12, 2009, with the Securities and Exchange Commission.

In the opinion of management, these unaudited condensed consolidated interim financial statements reflect all adjustments necessary for a fair presentation of the Company s interim financial results. All such adjustments are of a normal and recurring nature. The results of operations for any interim period are not necessarily indicative of results for the full calendar year.

The accompanying unaudited condensed consolidated interim financial statements include the accounts of the Company, its wholly-owned subsidiaries and it majority ownership interest in American Processing Company, LLC (APC). The Company accounts for the percentage interest in APC that it does not own as noncontrolling interest. During the quarter, the Company began operating APC under the trade name National Default Exchange, or NDeX. Therefore, when the Company refers to NDeX in these notes, it means all of its mortgage default processing operations in Michigan, Indiana, Minnesota and at Barrett-NDEx (defined below), which serves the Texas, California and Georgia markets, all of which the Company formerly referred to as APC. When the Company refers to Barrett-NDEx in these notes, it means the entities that constitute the mortgage default processing operations serving the Texas, California and Georgia markets which NDeX acquired on September 2, 2008, as described in Note 3 National Default Exchange L.P. and related entities.

All significant intercompany accounts and transactions have been eliminated in consolidation.

Use of Derivative Instruments: Under the Company s bank credit facility, it is required to enter into derivative financial instrument transactions, such as swaps or interest rate caps, in order to manage or reduce its exposure to risk from changes in interest rates. The Company uses interest rate swaps because it is exposed to market risks related to interest rates, with its exposure to changes in interest rates being limited to borrowings under its credit facility. The Company has not designated these interest rate swap agreements for hedge accounting treatment. As of June 30, 2009, the Company had swap arrangements that convert $40.0 million of its variable rate term loan into a fixed rate obligation. The Company does not enter into derivatives or other financial instrument transactions for speculative purposes. The interest rate swaps are valued using market interest rates, and are included in deferred revenue and other liabilities in its unaudited condensed consolidated balance sheet. As such, these derivative instruments are classified within level 2 under SFAS No. 157.

Fair Value of Financial Instruments: The carrying value of cash equivalents, accounts receivable, and accounts payable approximate fair value because of the short-term nature of these instruments. To estimate the fair value of debt issues that are not quoted on an exchange, the Company estimates an interest rate it would be required to pay if it had to refinance its debt. At June 30, 2009, the estimated fair value of debt was $137.1 million compared to a carrying value of $149.1 million. At June 30, 2008, the carrying value of variable-rate debt approximated fair value as the interest rate was not significantly different than the current market rate.

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New Accounting Pronouncements: In December 2007, the FASB issued SFAS No. 141R, Business Combinations, (SFAS No. 141R) which changes how the Company accounts for business acquisitions. SFAS No. 141R requires the acquiring entity in a business combination to recognize all (and only) the assets acquired and liabilities assumed in the transaction and establishes the acquisition-date fair value as the measurement objective for all assets acquired and liabilities assumed in a business combination. Certain provisions of this standard will, among other things, impact the determination of acquisition-date fair value of consideration paid in a business combination (including contingent consideration); exclude transaction costs from acquisition accounting; and change accounting practices for acquired contingencies, acquisition-related restructuring costs, in-process research and development, indemnification assets, and tax benefits. For the Company, SFAS No. 141R was effective beginning January 1, 2009. Accordingly, for acquisitions occurring after January 1, 2009, the Company is required to expense, in the period incurred, acquisition-related costs, rather than including such costs in the purchase price as it has historically done. The Company did not consummate any acquisitions or incur any significant transaction-related costs during the six months ended June 30, 2009.

In April 2009, the FASB issued FSP No. FAS 141(R)-1, Accounting for Assets Acquired and Liabilities Assumed in a Business Combination That Arise from Contingencies (FSP FAS 141(R)-1). FSP FAS 141(R)-1 amends and clarifies SFAS No. 141(R) to address application issues raised by preparers, auditors, and members of the legal profession on initial recognition and measurement, subsequent measurement and accounting, and disclosure of assets and liabilities arising from contingencies in a business combination. For the Company, the FSP is effective for assets or liabilities arising from contingencies in business combinations for which the acquisition date is on or after January 1, 2009. The initial adoption of FSP FAS 141(R)-1 did not have an impact on the Company s results of operations or cash flows for the six months ended June 30, 2009, but future acquisitions may be impacted by the provisions of this standard.

In December 2007, the FASB issued SFAS No. 160, Noncontrolling Interests in Consolidated Financial Statements, an amendment of ARB No. 51, (SFAS No. 160) which establishes new standards governing the accounting for and reporting of noncontrolling interests (NCIs) in partially owned consolidated subsidiaries and the loss of control of subsidiaries. Certain provisions of this standard indicate, among other things, that NCIs (previously referred to as minority interests), in most cases, be treated as a separate component of equity, not as a liability; that increases and decreases in the parent s ownership interest that leave control intact be treated as equity transactions, rather than as step acquisitions or dilution gains or losses; and that losses of a partially owned consolidated subsidiary be allocated to the NCI even when such allocation might result in a deficit balance. This standard also requires the Company to change certain presentation and disclosures in its financial statements. For the Company, SFAS No. 160 was effective beginning January 1, 2009. The Company s noncontrolling interest consists of the 15.3% aggregate membership interests in its subsidiary, NDeX, held by APC Investments, LLC, Feiwell & Hannoy Professional Corporation and the sellers of Barrett-NDEx (defined in Note 3 below) or their affiliates (as a group). Under the NDeX operating agreement, each of the holders of the noncontrolling interests has the right, for a certain period of time, to require NDeX to repurchase all or any portion of the NDeX membership interests held by such holder. To the extent any holder timely exercises this right, the purchase price of such membership interest will be based on 6.25 times NDeX s trailing twelve month earnings before interest, taxes, depreciation and amortization less the aggregate amount of any interest bearing indebtedness outstanding for NDeX as of the date the repurchase occurs. Because the NCIs have a redeemable feature outside of the control of the Company, the Company will continue to show these NCIs on the mezzanine section of the balance sheet between Liabilities and Stockholders Equity, rather than a separate component of equity. Also because of the redeemable nature of these NCIs, the Company is required to employ the provisions of EITF Topic D-98, which SFAS No. 160 amended, and adjust the NCIs to either the fair value or the redemption amount at each reporting period. The Company has chosen to record its NCIs at the redemption amount, with the adjustment recorded through additional paid-in capital rather than directly as a charge against earnings, and has therefore employed the two-class method as set forth in EITF 03-6 to calculate earnings per share based on net income attributable to its common stockholders. At June 30, 2009, the Company has recorded an adjustment of $7.3 million (net of tax) to record the redeemable noncontrolling interests to their redemption value. If SFAS No. 160 was effective at December 31, 2008, the carrying amount of the noncontrolling interests of $15.8 million would have been adjusted to reflect the redemption value of $16.8 million, resulting in a $0.6 million adjustment to additional paid-in capital (net of tax). The provisions of the standard have been applied to all NCIs prospectively, except for the presentation and disclosure requirements, which have been applied retrospectively to all periods presented.

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In March 2008, the FASB issued Statement No. 161, Disclosures about Derivative Instruments and Hedging Activities an amendment of FASB Statement No. 133 (SFAS No. 161). The Statement requires companies to provide enhanced disclosures regarding derivative instruments and hedging activities in order to better convey the purpose of derivative use in terms of the risks that such companies are intending to manage. Disclosures about (a) how and why an entity uses derivative instruments, (b) how derivative instruments and related hedged items are accounted for under SFAS No. 133 and its related interpretations, and (c) how derivative instruments and related hedged items affect a company s financial position, financial performance, and cash flows are required. This Statement retains the same scope as SFAS No. 133 and was effective beginning January 1, 2009 for the Company. Accordingly, the Company has included the required disclosures in Use of Derivative Instruments above.

In April 2009, the FASB issued FSP FAS 107-1 and APB 28-1, Interim Disclosures about Fair Value of Financial Instruments (FSP FAS 107-1 and APB 28-1). FSP FAS 107-1 and APB 28-1 increases the frequency of certain fair value disclosures from annual to quarterly. Such disclosures include the fair value of all financial instruments within the scope of Statement of Financial Accounting Standards (SFAS) No. 107, Disclosures about Fair Value of Financial Instruments, as well as the methods and significant assumptions used to estimate fair value. FSP FAS 107-1 and APB 28-1 is effective for interim periods ending after June 15, 2009. Accordingly, the Company has included such disclosures in Fair Value of Financial Instruments above.

In May 2009, the FASB issued SFAS No. 165, Subsequent Events (SFAS No. 165) , establishing principles and requirements for subsequent events. In particular, SFAS No. 165 sets forth the period after the balance sheet date during which management shall evaluate events or transactions that may occur for potential recognition or disclosure in the financial statements, the circumstances under which an entity shall recognize events or transactions occurring after the balance sheet date in its financial statements, and the disclosures that an entity shall make about events or transactions that occurred after the balance sheet date. SFAS No. 165 is effective for interim periods ending after June 15, 2009. Accordingly, the Company has applied the provisions of this statement in the current reporting period. See Note 14 for information pertaining to subsequent events.

Note 2. Basic and Diluted Income Per Share

Basic per share amounts are computed, generally, by dividing net income by the weighted-average number of common shares outstanding. As described in the Company s discussion of SFAS No. 160 in Note 1 above, the Company has employed the two-class method to calculate earnings per share based on net income attributable to its common stockholders. At June 30, 2009 and December 31, 2008, there were no shares of preferred stock issued and outstanding. Diluted per share amounts assume the conversion, exercise, or issuance of all potential common stock instruments (see Note 12 for information on stock options) unless their effect is anti-dilutive.

The following table computes basic and diluted net income per share (*in thousands, except per share amounts*):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2009	**2008**	**2009**	**2008**
Net income attributable to Dolan Media Company	$ 8,206	$ 4,397	$ 16,853	$ 8,404
Accretion of redeemable noncontrolling interest, net of tax	(3,943)		(7,293)	
Net income attributable to Dolan Media Company common stockholders	$ 4,263	$ 4,397	$ 9,560	$ 8,404
Basic:				
Weighted average common shares outstanding	30,036	25,116	29,995	25,101
Weighted average common shares of unvested restricted stock	(221)	(180)	(184)	(165)

Shares used in the computation of basic net income per share	29,815	24,936	29,811	24,936