NUTRACEA
Form 10-K
October 20, 2009

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 10-K

(Mark one)

ý ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d)
OF THE SECURITIES EXCHANGE ACT OF 1934

For the year ended December 31, 2008

¨ 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 0-32565

NUTRACEA
(Exact name of registrant as specified in its Charter)

California	87-0673375
(State of Incorporation)	(I.R.S. Employer Identification No.)
5090 N. 40th St., Suite #400 Phoenix, AZ	85018
(Address of Principal Executive Offices)	(Zip Code)

Registrant's Telephone Number, Including Area Code: (602) 522-3000

Securities registered under Section 12(b) of the Exchange Act:
NONE

Securities registered under Section 12(g) of the Exchange Act:
Common Stock, no par value
(Title of Class)

Indicate by check mark if the registrant is a well-know seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ¨ No ý

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ¨ No ý

Indicate by check mark whether the issuer: (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 o No ý

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 ý No ¨

Indicate by check mark if disclosure of delinquent filers in response to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ¨

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 definition of "accelerated filer and large accelerated filer" in Rule 12b-2 of the Exchange Act.

Large accelerated filer ¨	Accelerated filer ý	Non-accelerated filer o	Smaller reporting company o

Indicate by check mark if the registrant is a shell company (as defined in Rule 12b-2 of the Securities Exchange Act of 1934, as amended). YES ¨ NO ý

State the aggregate market value of the voting and non-voting common equity held by non-affiliates computed by reference to the price at which the common equity was sold, or the average bid and asked prices of such common equity, as of the last business day of the registrant's most recently completed second fiscal quarter: As of June 30, 2008, the aggregate market value of the Company's common stock held by non-affiliates was $167,743,724.

Indicate the number of shares outstanding of each of the issuer's classes of common equity, as of the latest practicable date: As of August 31, 2009, there were 192,967,680 shares of common stock outstanding.

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FORWARD-LOOKING STATEMENTS

This Annual Report includes forward-looking statements that involve substantial risks and uncertainties. These forward-looking statements are not historical facts, but are based on current expectations, estimates and projections about our industry, our beliefs and our assumptions. Words such as “believes,” “anticipates,” “expects,” “intends” and simila expressions are intended to identify forward-looking statements, but are not the exclusive means of identifying such statements. These forward-looking statements are not guarantees of future performance and concern matters that could subsequently differ materially from those described in the forward-looking statements. Actual events or results may also differ materially from those discussed in this Annual Report. These risks and uncertainties include those described in “Risk Factors” and elsewhere in this Annual Report. Except as required by law, we undertake no obligation to revise any forward-looking statements in order to reflect events or circumstances that may arise after the date of this Annual Report.

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Explanatory Note

NutraCea ("Company") has restated its consolidated balance sheets at December 31, 2006 and 2007 and its consolidated statements of operations, stockholders' equity, and cash flows for its fiscal years ended December 31, 2006 ("fiscal 2006") and December 31, 2007 ("fiscal 2007"). In addition, certain restatement adjustments affected interim financial information for all of the quarters of fiscal 2007 and the first three quarters of the fiscal year ended December 31, 2008 ("fiscal 2008") previously filed on Form 10-Q. Such restatement adjustments are reflected in the unaudited selected quarterly financial data as disclosed in Note 25 - Quarterly Financial Data to the Consolidated Financial Statements included in Item 8, "Financial Statements and Supplementary Data" of this Annual Report on Form 10-K ("Annual Report").

The restatement adjustments reflect the correction of errors made in the application of generally accepted accounting principles ("GAAP"). For a discussion of the significant restatement adjustments and the background leading to the adjustments, see Note 2 – Audit Committee Review and Restatement of Consolidated Financial Statements to the Consolidated Financial Statements included in Item 8 of this Annual Report.

The Company has not amended its prior Annual Reports on Form 10-K or Quarterly Reports on Form 10-Q for the periods affected by the restatement adjustments. The financial statements and related interim financial information contained in such reports is superseded by the information in this Annual Report and the financial statements and related interim financial information contained in such previously filed reports should not be relied upon.

Significant Events

The filing of this Annual report for fiscal 2008 has been delayed as a result of the matters described below under the heading "Audit Committee Review and Restatement of Consolidated Financial Statements." Set forth below is a summary of certain significant events that occurred during fiscal 2008 and through the date of this filing.

Audit Committee Review and Restatement of Consolidated Financial Statements

Overview

The Company's Consolidated Financial Statements for the years ended December 31, 2006 and 2007 and quarterly information for the first three quarterly periods of fiscal 2008 have been restated to correct errors of the type identified in the course of the Audit Committee-led accounting review (discussed further below, and referred to herein as the "Audit Committee-led review") and other accounting errors identified by the Company in the course of the restatement process and more fully described in the "Background" section below.

The Audit Committee concluded that the errors were the result of the improper accounting of several revenue transactions, and the improper accounting of the Company's investment in an Indonesian wheat flour trading company. Subsequent to the conclusions addressed by the Audit Committee, the Company also determined that certain moving and rental allowance transactions associated with the occupancy of the Company's current corporate headquarters, an additional revenue transaction, and the recognition of license fee revenue associated with an Indonesian joint venture had not been accounted for properly. A summary of these subsequent transactions is described below, and is included as part of the restated Consolidated Financial Statements.

The improper accounting of the transactions was primarily the result of the internal control weaknesses which existed within the Company. Management has begun and continues to review the Company's accounting practices and its internal control over financial reporting. These are discussed under "Management Report on Internal Control over Financial Reporting" presented in Item 9A, "Controls and Procedures".

Background

During December 2008, the Audit Committee which is comprised of independent outside directors of the Board of Directors of the Company commenced an internal review of certain matters with respect to the Company's accounting and reporting practices, including the appropriateness and/or timing of recognition of revenues from certain transactions in 2007, and the adequacy of internal controls over financial reporting and disclosure controls and procedures ("Original Review"). The Audit Committee retained independent outside counsel and forensic accounting consultants to assist in the investigation.

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As a result of the preliminary findings of the investigation, the Board of Directors of the Company determined, based upon the recommendation of the Audit Committee, that the Company should restate its financial statements for the year ended December 31, 2007, including the second, third, and fourth quarters in 2007 and the first three quarters for the year ended December 31, 2008. Accordingly, on February 17, 2009, the Board of Directors determined, based upon the recommendation of the Audit Committee that the Company's previously issued Consolidated Financial Statements included in the filings with the Securities and Exchange Commission ("SEC") for these periods should no longer be relied upon. On February 23, 2009, the Company disclosed in its Current Report on Form 8-K ("Original Form 8-K") the actions and final determinations of the Company's Board of Directors and Audit Committee as outlined in this and the prior paragraph.

Following the date of the Original Form 8-K, the Audit Committee expanded its review to include the Company's accounting treatment of additional transactions in 2006, 2007, and 2008 ("Subsequent Review"). Based upon the Subsequent Review, the Audit Committee determined on April 23, 2009 that the Company would also restate its Consolidated Financial Statements for the year ended December 31, 2006, including the fourth quarter of 2006, and the first quarter of 2007, and that these Consolidated Financial Statements should not be relied upon. On April 23, 2009, the Company disclosed in its Current Report on Form 8-K ("Subsequent Form 8-K") the actions and final determinations of the Company's Board of Directors and Audit Committee as outlined in this paragraph.

Subsequent to the conclusions addressed by the Audit Committee in the Original and Subsequent Reviews, the Company also determined that certain moving and rental allowance transactions associated with the occupancy of the Company's current corporate headquarters, an additional revenue transaction, and the recognition of license fee revenue associated with an Indonesian joint venture had not been accounted for properly ("Additional Findings"). A summary of these subsequent transactions is described below, and is included as part of the restated Consolidated Financial Statements.

In connection with the Original Review, Subsequent Review, and Additional Findings, the Company determined that it improperly accounted for the following transactions in 2006, 2007 and 2008:

Original Review:

- The Company recognized revenue in the second quarter of 2007 on a $2.6 million sale of its Dr. Vetz PetFlex brand product with respect to which the applicable criteria for revenue recognition were not met. Based upon the facts discovered during the Audit Committee investigation, the Company has now concluded that a $1.0 million deposit received by the Company in that transaction was provided to the purchaser through a loan from a person who at the time was a consultant to and a former officer of NutraCea, and that the evidence originally relied upon to determine and support the purchaser's ability to pay the remaining $1.6 million receivable balance was subsequently determined to be inaccurate. The Company reversed this sale which resulted in a reduction of revenue of $2.6 million, a reduction of cost of goods sold of $0.6 million, and a reduction of net income of $2.0 million. The deposit is recorded as a other non-current liability in the Consolidated Financial Statements. This liability will be extinguished upon the resolution of certain legal matters.

- The Company determined that a $2.0 million sale of its RiceNShine product in December 2007 did not meet accounting requirements for revenue recognition in a bill and hold transaction and that the transaction should not have been recognized as revenue in the Company's 2007 results. The Company reversed this sale which resulted in a reduction of revenue of $2.0 million, a reduction of cost of goods sold of $1.3 million, and a reduction of net income of $0.7 million for 2007. The revenues, costs of goods sold, and net income from this sale were ultimately recognized in the four quarters of 2008 and the first quarter of 2009 as follows (in millions):

	Q1-2008	Q2-2008	Q3-2008	Q4-2008	Q1-2009

Revenues	$0.7	$0.7	$0.4	$0.1	$0.1
Cost of Goods	0.5	0.5	0.3	0.0	0.0
Net Income	$0.2	$0.2	$0.1	$0.1	$0.1

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Subsequent Review and Additional Findings:

- The Company recorded revenue of $1.6 million in the fourth quarter of 2006 from a sale of Dr. Vetz Pet Flex product to an infomercial customer. The Company recorded an $800,000 reserve for this receivable in the second quarter of 2007. In the third quarter of 2007 the customer returned the product and the Company recorded a sales return of $1.6 million and reversed the reserve it had recorded in the second quarter of 2007. The Company has now determined that it will reverse this sale in 2006 instead of in 2007 because (i) the Company does not have adequate evidence to conclude that the receivable relating to this sale was collectable in the quarter it was recognized and (ii) the Company did not have sufficient experience in the infomercial market to adequately understand the distribution channel, the fluctuating nature of sales into this channel or to estimate the potential for product return. The effect of the reversal will be to (1) reduce total revenue by $1.6 million in 2006, (2) reduce cost of sales by $268,000 in 2006, (3) reduce net income by $1.4 million in 2006 and (4) increase net income by $1.4 million in 2007.

- In June 2007 the Company granted to Pacific Holdings Advisors Limited ("PAHL") a perpetual and exclusive license and distribution rights ("License") for the production and sale of Stabilized Rice Bran ("SRB") and SRB derivative products in certain countries in Southeast Asia. PAHL agreed to pay the Company a $5 million one-time license fee ("License Fee"), which was due and payable on the fifth anniversary of the commencement of SRB production at a facility established by PAHL or a joint venture of PAHL and the Company. The Company recorded this $5 million License Fee in the second quarter of 2007. Contemporaneous with the grant of the License, the Company and PAHL jointly formed Grain Enhancements, LLC ("GE"). Pursuant to GE's limited liability company agreement, PAHL sublicensed its rights under the License to GE.

Upon further analysis of these transactions, the Company has concluded that the License Fee did not qualify as revenue to the Company under generally accepted accounting principles. Through our review of the transactions, including the License and other agreements that the Company entered into in connection with the formation of GE, we determined that the transactions should have been considered as one arrangement with multiple deliverables instead of stand-alone transactions. The various obligations under this one arrangement would have precluded immediate revenue recognition of the License Fee. Accordingly, this transaction was reversed, which decreased the Company's license fee revenue in 2007 by $5 million and increased the Company's net loss in 2007 by $5 million.

In March 2008, Medan, LLC ("Medan"), a wholly-owned subsidiary of the Company, purchased ("First Purchase") from Fortune Finance Overseas LTD ("FFOL") for $8.175 million 9,700 outstanding shares of capital stock of PT Panganmas Int Nusantara ("PIN"), an Indonesian company. In June 2008, Medan purchased directly from PIN 3,050 additional shares of PIN capital stock for $2.5 million. Following these purchases, Medan and FFOL own 51% and 49%, respectively of PIN's outstanding capital stock. The capital contributions that the Company made to Medan funded the purchase of the PIN shares.

The determination of the purchase price of the PIN shares was agreed to by management based upon an economic feasibility study of the PIN project that the Company obtained from a third party valuation firm. Based upon this study, the Company recorded the value of the PIN shares on its balance sheet at $10.675 million, which was the price the Company paid for the PIN shares. Upon further review, the Company has determined that there was not sufficient evidence at the time of their acquisition to support the $10.675 million valuation of the PIN shares. Accordingly, the Company has decided to restate its consolidated balance sheet to reduce the value of the PIN shares by $5 million to $5.675 million as outlined below.

In March 2008, PAHL paid to the Company $5 million for its License Fee described above. A principal shareholder of FFOL is also a principal shareholder of PAHL, and the Company's receipt of payment for the License Fee was made at the same time the Company decided to make the First Purchase of the PIN shares. Based in part upon the related ownership of FFOL and PAHL, the timing of the payments, the sub-license of PAHL's rights under the License to GE and the Company's current determination of the value of the PIN shares, the Company now believes the First Purchase of the PIN shares and the payment of the License Fee should be viewed as a combined event with related parties, causing the Company to account for the First Purchase of the PIN shares as a payment of $3.175 million instead of $8.175 million.

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In accounting for the PIN and GE transactions described above, the Company used the equity method. The planned business of PIN was the construction and operation of a wheat flour mill in Indonesia including the production of stabilized wheat co-products. Constructing and operating wheat flour mills does not fit the strategic direction we have defined for NutraCea. On July 23, 2009, we sold to FFOL the Company's entire balance of 12,750 shares of capital stock of PIN, which shares represented 51% of the currently issued and outstanding capital stock of PIN. FFOL agreed to pay $1,675,000 to Medan to purchase these shares thus purchasing all of our interest in PIN. The sale of our shares of capital stock of PIN resulted in a $3,996,000 impairment charge representing the difference between the carrying value of our investment and the cash to be received from FFOL. This impairment change was recorded as of December 31, 2008.

- In April 2007, the Company began leasing the office space that it currently occupies as its corporate headquarters in Phoenix, Arizona. As part of the lease arrangement, the landlord provided certain moving and rental incentives to the Company. The rental incentives provided funds which the Company used for leasehold improvements of the office space. The Company did not properly account for the incentives. The Company accounted properly for these transactions as part of its restatement of the Consolidated Financial Statements for fiscal 2007, the second, third, and fourth quarters of fiscal 2007, and the first three quarters of fiscal 2008. The restatement increased rent expense by $139,000 for the second quarter of 2007 and decreased rent expense by $42,000 for the third and fourth quarters of 2007 and for each of the first three quarters of 2008.

- In the second quarter of 2007, the Company recognized revenue on an approximately $2.1 million sale to a nutraceutical distributor. The customer made payments during the third and fourth quarters of 2007, and a balance of approximately $1.4 million remained at the end of 2007. The Company established a reserve for doubtful accounts for the remaining amount as of December 31, 2007. Based upon facts discovered in the Additional Findings, the Company concluded that the sale did not meet the criteria for revenue recognition, and therefore restated the transaction. The restatement resulted in a reduction to the 2007 revenue of approximately $1.4 million and a reduction to the 2007 bad debt expense of approximately $1.4 million.

The following table summarizes the impact of the restated items on our statement of operations for the periods noted and should be read in conjunction with the accompanying Consolidated Financial Statements and Notes thereto (amounts in thousands except per share data).

	Nine Months Ended 9/30/2008		12/31/07		12/31/06	
Net (loss) income, as previously reported	$(17,378	)	$(11,911	)	$1,585	
Change to revenues for product revenue recognition	1,839		(4,435	)	(1,551	)
Change to revenues for license fee revenue recognition			(5,000	)		
Change to cost of goods sold for product revenue recognition	(1,247	)	1,015		268	
Change for decrease in bad debt expense	62		2,979			
Change for (increase)/decrease in other operating expenses	390		(1,015	)		
Change for increase/(decrease) in other income	119		391			
Impact of restatement items	1,163		(6,065	)	(1,283	)
Net (loss) income, as restated	$(16,215	)	$(17,976	)	$302	
Earnings (loss) per share						
Basic, as previously reported	$(0.12	)	$(0.09			