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AMCON DISTRIBUTING CO
Form 10-Q/A
August 22, 2005

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

FORM 10-Q/A
(Amendment No. 1)

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

For the quarterly period ended December 31, 2004

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
(State or other jurisdiction of Incorporation)

7405 Irvington Road
Omaha, NE 68122
(Address of principal executive offices)
(Zip Code)

47-0702918
(I.R.S. Employer Identification No.)

(402) 331-3727
(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 X No
----- -----

Indicate by check mark whether the registrant is an accelerated filer (as defined in Rule 12b-2 of the Exchange Act).

Yes No X
----- -----

The Registrant had 527,062 shares of its \$.01 par value common stock outstanding as of February 7, 2005.

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EXPLANATORY NOTE

Subsequent to the issuance of the Company's Form 10-Q for the quarter ended December 31, 2004, management and the Company's Audit Committee determined that the Company would restate its balance sheets as of September 24, 2004 and as of December 31, 2004 to reflect (i) a correction in the classification of Series A (issued in June 2004) and Series B (issued in October 2004) Preferred Stock from permanent equity to mezzanine financing, and (ii) a correction in the classification of its revolving credit facility from long-term to short-term debt. The balance sheet as of September 24, 2004 has been restated on Form 10-K/A filed with the Securities and Exchange Commission.

Under Emerging Issue Task Force ("EITF") Topic No. D-98, "Classification and Measurement of Redeemable Securities," the possibility of a redemption of securities that is not solely within the control of the issuer without regard to probability requires the security to be classified outside of permanent equity. The Certificate of Designation creating the Series A and Series B Preferred Stock each contain provisions that give the holders the optional right to redeem such stock if either there is a change of control (as defined in the Certificate of Designation) or the Wright Family (as defined in the Certificate of Designation to include William F. Wright, the Company's Chief Executive Officer, Chairman of the Board and largest stockholder) beneficially owns less than 20% of the outstanding shares of common stock. The Company believes it is unlikely that either of those events will occur without support of the Board of Directors since the two owners of the Series A Preferred Stock and the sole owner of the Series B Preferred Stock each have a representative on the Board of Directors, the interests of the Company and those representatives are aligned, and the aggregate ownership of all of the Board members is in excess of two-thirds of the outstanding shares of common stock. However, there can be no assurance that this will not occur.

EITF 95-22 "Balance Sheet Classification of Borrowings Outstanding under Revolving Credit Agreements That Include both a Subjective Acceleration Clause and a Lock-Box Arrangement," requires borrowings under an agreement that includes both a subjective acceleration clause and a lock-box arrangement to be classified as short-term indebtedness. Because the Company's agreement contains both of these features, the borrowings have been restated to be classified as short-term for September 2004 and December 2004. The lending banks and the Company amended the revolving loan agreement after the Company's second fiscal quarter of 2005 to replace the lockbox provision with a springing lockbox arrangement that would require the Company's cash to be placed in a lockbox account that would be used to automatically pay down the revolving indebtedness only in the instance of an event of default. EITF 95-22, nevertheless, requires the correction to the classification of the revolving credit facility for reports filed prior to such amendment to the revolving loan agreement.

These restatements do not impact amounts already reported as sales, net income (loss) available to common shareholders or earnings (loss) per share, nor will they result in a default under any provisions in the credit agreement.

In addition, in March 2005, the Company discontinued the operations of its

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beverage marketing and distribution business. As a result, the balance sheets as of December 31, 2004 and September 24, 2004 and the statements of operations and statements of cash flows for the fiscal quarters ended December 31, 2004 and December 26, 2003 have been prepared reflecting this disposition as discontinued operations in accordance with Statement of Financial Accounting Standards ("SFAS") No. 144 "Accounting for the Impairment or Disposal of Long-Lived Assets."

This amendment is being filed to restate the December 31, 2004 Condensed Consolidated Unaudited Balance Sheets and to reflect the discontinued operations subsequent event discussed in Notes 12 and 13, respectively, to the Condensed Consolidated financial statements. Except for Items 1, 2 and 4 of Part I and the associated certifications, no other information included in the original reports on Form 10-Q is amended by this Form 10-Q/A.

Form 10-Q
1st Quarter

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| PART I - FINANCIAL INFORMATION | |
| Item 1. Financial Statements | |

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| | December 2004 (As restated - see notes 1 and 12) | September 2004 |
|--|--|----------------|
| ASSETS | | |
| Current assets: | | |
| Cash | \$ 904,670 | \$ 416,000 |
| Accounts receivable, less allowance for doubtful accounts of \$0.4 million and \$0.6 million, respectively | 26,439,525 | 29,109,000 |
| Inventories | 35,454,419 | 35,088,000 |
| Income tax receivable | 955,839 | 1,162,000 |
| Deferred income taxes | 2,618,391 | 2,548,000 |
| Current assets of discontinued operations | 1,960,306 | 1,941,000 |
| Other | 1,132,792 | 635,000 |
| Total current assets | 69,465,942 | 70,903,000 |
| Fixed assets, net | 20,806,795 | 19,951,000 |
| Goodwill | 6,449,741 | 6,449,000 |
| Other intangible assets | 13,216,751 | 13,271,000 |
| Noncurrent assets of discontinued operations | 151,919 | 143,000 |
| Other assets | 1,485,457 | 1,010,000 |
| | \$111,576,605 | \$111,729,000 |
| LIABILITIES AND SHAREHOLDERS' EQUITY | | |
| Current liabilities: | | |
| Accounts payable | \$ 11,586,892 | \$ 17,180,000 |
| Accrued expenses | 5,141,522 | 3,800,000 |
| Accrued wages, salaries, bonuses | 1,087,363 | 1,365,000 |
| Current liabilities of discontinued operations | 1,060,612 | 2,166,000 |
| Credit facility | 58,431,021 | 44,809,000 |
| Current portion of long-term debt | 1,505,529 | 5,574,000 |
| Current portion of long-term debt due related party | 500,000 | |
| Current portion of subordinated debt | 1,076,219 | 7,876,000 |
| Total current liabilities | 80,389,158 | 82,773,000 |
| Deferred income taxes | 617,794 | 593,000 |
| Noncurrent liabilities of discontinued operations | 3,282 | 3,000 |
| Other long-term liabilities | 2,807,000 | 2,807,000 |
| Long-term debt, less current portion | 10,741,751 | 10,250,000 |
| Minority interest | - | 97,000 |
| Series A cumulative, convertible preferred stock, \$.01 par value 100,000 shares authorized and issued, liquidation preference \$25.00 per share | 2,438,355 | 2,438,000 |
| Series B cumulative, convertible preferred stock, \$.01 par value 80,000 shares authorized and issued, liquidation preference \$25.00 per share | 1,857,645 | |
| Commitments and contingencies (Note 11) | | |
| Shareholders' equity: | | |
| Preferred stock, \$.01 par, 1,000,000 shares authorized, none outstanding | - | - |
| Common stock, \$.01 par value, 15,000,000 shares authorized, 527,062 shares issued | 5,271 | 5,000 |
| Additional paid-in capital- common stock | 6,218,476 | 6,218,000 |

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| | | |
|---|---------------|------------|
| Accumulated other comprehensive income, net of tax of \$0.1 million and \$0.03 million, respectively | 100,323 | 59, |
| Retained earnings | 6,397,550 | 6,483, |
| | ----- | ----- |
| Total shareholders' equity | 12,721,620 | 12,766, |
| | ----- | ----- |
| | \$111,576,605 | \$111,729, |
| | ===== | ===== |

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

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AMCON Distributing Company and Subsidiaries
Condensed Consolidated Unaudited Statements of Operations
for the three months ended December 2004 and 2003

| | 2004 | 2003 |
|--|----------------|----------------|
| | ----- | ----- |
| Sales (including excise taxes of \$49.6 million and \$45.3 million, respectively) | \$ 214,386,628 | \$ 192,386,628 |
| Cost of sales | 198,459,240 | 177,459,240 |
| | ----- | ----- |
| Gross profit | 15,927,388 | 15,927,388 |
| | ----- | ----- |
| Selling, general and administrative expenses | 13,824,366 | 12,824,366 |
| Depreciation and amortization | 662,766 | 662,766 |
| | ----- | ----- |
| | 14,487,132 | 12,824,366 |
| | ----- | ----- |
| Operating income | 1,440,256 | 2,824,366 |
| | ----- | ----- |
| Other expense (income): | | |
| Interest expense | 906,201 | 906,201 |
| Other | (59,389) | (59,389) |
| | ----- | ----- |
| | 846,812 | 846,812 |
| | ----- | ----- |
| Income from continuing operations before income taxes | 593,444 | 2,824,366 |
| Income tax expense | 224,000 | 224,000 |
| Minority interest in loss, net of tax | (97,100) | (97,100) |
| | ----- | ----- |
| Income from continuing operations | 466,544 | 1,824,366 |
| Loss from discontinued operations, net of income tax benefit of \$0.3 million and \$0.5 million, respectively | (479,662) | (479,662) |
| Preferred stock dividend requirements | (72,481) | (72,481) |
| | ----- | ----- |
| Net (loss) income available to common shareholders | \$ (85,599) | \$ (85,599) |
| | ===== | ===== |
| Basic earnings (loss) per share available to common shareholders: | | |
| Continuing operations | \$ 0.75 | \$ 0.75 |
| Discontinued operations | (0.91) | (0.91) |

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| | | |
|--|-----------|----|
| Basic earnings (loss) per share available to common shareholders | \$ (0.16) | \$ |
| Diluted earnings (loss) per share available to common shareholders: | | |
| Continuing operations | \$ 0.85 | \$ |
| Discontinued operations | (0.87) | |
| Diluted earnings (loss) per share available to common shareholders | \$ (0.02) | \$ |
| Weighted average shares outstanding: | | |
| Basic | 527,062 | |
| Diluted | 547,728 | |

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

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AMCON Distributing Company and Subsidiaries
Condensed Consolidated Unaudited Statements of Cash Flows
for the three months ended December 2004 and 2003

| | 2004 | 2003 |
|--|-------------|--------------|
| CASH FLOWS FROM OPERATING ACTIVITIES: | | |
| Income from continuing operations available to common shareholders | \$ 394,063 | \$ 1,000,000 |
| Preferred stock dividend requirements | 72,481 | - |
| Income from continuing operations | 466,544 | 1,000,000 |
| Adjustments to reconcile income from continuing operations to net cash flows from operating activities: | | |
| Depreciation | 656,294 | - |
| Amortization | 60,936 | - |
| (Gain) loss on sale of fixed assets | (7,082) | - |
| (Gain) loss on sale of securities | - | - |
| Deferred income taxes | (45,224) | - |
| Provision for losses on doubtful accounts | 51,537 | - |
| Provision for losses on inventory obsolescence | 99,111 | - |
| Minority interest | (97,100) | - |
| Changes in assets and liabilities, net of effect of acquisitions: | | |
| Accounts receivable | 2,618,764 | 2,000,000 |
| Inventories | (464,962) | - |
| Other current assets | (456,528) | - |
| Other assets | (28,512) | - |
| Accounts payable | (5,593,757) | 3,000,000 |
| Accrued expenses and accrued wages, salaries and bonuses | 1,062,542 | - |
| Income tax receivable | 206,786 | - |

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| | | |
|--|--------------|-----|
| Net cash flows from operating activities - continuing operations | (1,470,651) | 6, |
| Net cash flows from operating activities - discontinued operations | (758,761) | (1, |
| | (2,229,412) | 4, |
| CASH FLOWS FROM INVESTING ACTIVITIES: | | |
| Purchases of fixed assets | (1,520,843) | (|
| Proceeds from sales of fixed assets | 16,500 | |
| Proceeds from sales of available-for-sale securities | - | |
| Other | (6,476) | |
| | (1,510,819) | |
| Net cash flows from investing activities - discontinued operations | (21,569) | |
| | (1,532,388) | |
| CASH FLOWS FROM FINANCING ACTIVITIES: | | |
| Net proceeds (payments) on bank credit agreements | 13,621,209 | (4, |
| Net proceeds from preferred stock issuance | 1,857,645 | |
| Proceeds from borrowings of long-term debt | 1,272,667 | |
| Preferred stock dividends paid | (72,481) | |
| Payments on long-term debt and subordinated debt | (11,146,920) | (|
| Proceeds from exercise of stock options | - | |
| Debt issue costs | (446,643) | |
| | 5,085,477 | (4, |
| Net cash flows from financing activities - discontinued operations | (835,080) | |
| | 4,250,397 | (4, |
| Net change in cash | 488,597 | |
| Cash, beginning of period | 416,073 | |
| Cash, end of period | \$ 904,670 | \$ |
| Supplemental disclosure of cash flow information: | | |
| Cash paid during the period for interest | \$ 1,012,476 | \$ |
| Cash (refunded) paid during the period for income taxes | (206,786) | |

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

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AMCON Distributing Company and Subsidiaries
Notes to Condensed Consolidated Unaudited Financial Statements
December 2004 and 2003

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES AND BASIS OF PRESENTATION:

As more fully described in Note 12, the Company has restated its December 2004 and September 2004 balance sheets in the accompanying condensed consolidated unaudited financial statements to correct classification errors related to the Series A and B Preferred Stock and its revolving credit facility (discussed in Notes 3 and 8, respectively).

In addition, as discussed in Note 13, in March 2005, the Company discontinued the operations of its beverage marketing and distribution business. As a

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result, the balance sheets as of December 31, 2004 and September 24, 2004 and the statements of operations and statements of cash flows for the fiscal quarters ended December 31, 2004 and December 26, 2003 have been prepared reflecting this disposition as discontinued operations in accordance with Statement of Financial Standards ("SFAS") No. 144 "Accounting for the Impairment or Disposal of Long-Lived Assets."

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

The accompanying condensed consolidated unaudited financial statements include the accounts of AMCON Distributing Company and its subsidiaries ("AMCON" or the "Company"). As a result of its 85% ownership in Trinity Springs, Inc. (TSI), the Company has included the operating results of TSI in the accompanying consolidated financial statements since the date of acquisition (June 17, 2004) and has presented the 15% non-owned interest in this subsidiary as a minority interest. During the first quarter of fiscal 2005, the Company suspended the allocation of TSI's losses to minority shareholders once their basis was reduced to zero because the minority shareholders have not guaranteed TSI debt or committed additional capital to TSI.

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 financial statements should be read in conjunction with the Company's amended annual audited consolidated financial statements for the year ended September 24, 2004, as filed with the Securities and Exchange Commission on Form 10-K/A ("2004 Annual Report").

Certain reclassifications have been made to prior years' financial statements to conform with the current year presentation.

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AMCON's fiscal first quarters ended on December 31, 2004 and December 26, 2003. For convenience, the fiscal first quarters of 2005 and 2004 have been indicated as December 2004 and 2003, respectively. During the first quarter of fiscal 2005, the Company changed its reporting period from a 52-53 week year ending on the last Friday in September to a calendar month reporting period ending on September 30. As a result of this change, the first quarter of fiscal 2005 comprises 14 weeks of operations as compared to 13 weeks of operations in the first quarter of fiscal 2004. The additional week of operations increased sales, gross profit and net income by approximately \$14.3 million, \$0.8 million and \$0.1 million, respectively.

During fiscal 2004, the shareholders' approved a one-for-six reverse stock split of the outstanding shares of its common stock. On May 14, 2004, the Company effected the reverse stock split and those shareholders who held fewer than six shares of AMCON's common stock immediately prior to the reverse stock split received a cash payment in exchange for their shares. All common stock shares and per share data (except par value) for all periods presented have been adjusted to reflect the reverse stock split.

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Stock-based Compensation

Prior its expiration in June 2004, AMCON maintained a stock-based compensation plan which provided that the Compensation Committee of the Board of Directors granted incentive stock options and non-qualified stock options. AMCON accounted for these stock option grants in accordance with Accounting Principles Board Opinion ("APB") No. 25, "Accounting for Stock Issued to Employees" using the intrinsic value method under which compensation cost was measured by the excess, if any, of the fair market value of its common stock on the date of grant over the exercise price of the stock option. Accordingly, stock-based compensation cost related to stock option grants was not reflected in income or loss as all options granted under the plan had an exercise price equal to or above the market value of the underlying stock on the date of grant.

The following table illustrates the required pro forma effect on income (loss) and earnings (loss) available to common shareholders and the associated per share amounts assuming the Company had applied the fair value recognition provisions of Statement of Financial Accounting Standards ("SFAS") No. 123, "Accounting for Stock-Based Compensation" to stock-based employee compensation:

| | For the three months ended December | |
|---|--|------------|
| | 2004 | 2003 |
| Net (loss) earnings ===== | | |
| Net (loss) income available to common shareholders, as reported | \$ (85,599) | \$ 514,244 |
| Deduct: Total stock-based employee compensation expense determined under fair value based method for all awards, net of related tax effects | (14,008) | (15,303) |
| 8 | | |
| Pro forma net (loss) income available to common shareholders | \$ (99,607) | \$ 498,941 |
| Net (loss) earnings per share ===== | | |
| As reported: Basic | \$ (0.16) | \$ 0.97 |
| Diluted | \$ (0.02) | \$ 0.96 |
| Pro forma: Basic | \$ (0.19) | \$ 0.94 |
| Diluted | \$ (0.05) | \$ 0.93 |

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Related Party Transactions

As of December 2004, the Company's subsidiary, TSI, owes a director of the Company \$0.5 million on a \$1.0 million revolving credit facility extended to TSI in December 2004 with an interest rate of 8% per annum. The director is secured by a second mortgage on TSI's real property on an equal basis with the Company's existing second mortgage on TSI's real property. The revolving credit line matures on December 14, 2005 at which time principal and accrued interest will be due. Interest incurred during Q1 2005 was insignificant.

2. ACQUISITIONS

Trinity Springs, Inc.

On June 17, 2004, a newly formed subsidiary of AMCON, TSL Acquisition Corp. acquired the tradename, water source, customer list and substantially all of the operating assets of Trinity Springs, Ltd. (the "Seller," which subsequently changed its name to Crystal Paradise Holdings, Inc.), a bottler of geothermal bottled water and a natural mineral supplement. TSL Acquisition Corp. subsequently changed its name to TSI and continues to operate under that name.

The total purchase price of \$8.8 million was paid through a combination of \$2.3 million in cash, \$3.3 million in notes which were issued by TSI and guaranteed by AMCON; the assumption of approximately \$0.2 million of liabilities and the issuance of TSI common stock representing 15% ownership of TSI which had an estimated fair value of \$0.2 million. The TSI common stock is convertible into 16,666 shares of AMCON common stock at the option of the Seller. Additionally, the conversion option had an estimated fair value of \$0.2 million. Included in the \$2.3 million paid in cash are transaction costs totaling approximately \$0.8 million that were incurred to complete the acquisition and consists primarily of fees and expenses for attorneys and investment bankers. In addition, TSI will pay an annual water royalty to the Seller, in perpetuity, in an amount equal to the greater of \$0.03 per liter of water extracted from the source or 4% of water revenues (as defined by the purchase agreement) which is guaranteed by AMCON up to a maximum of \$5 million, subject to a floor of \$206,400 for the first year and \$288,000 annually thereafter. The Company has recorded a \$2.8 million liability for the present value of future minimum water royalty payments and related brokers fees to be paid in perpetuity. The discount rate utilized by

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the Company to determine the present value of the future minimum water royalty was based on a weighted average cost of capital which incorporated the Company's equity discount rate, dividend rate on the Series A Convertible Preferred Stock and the Company's average borrowing rate for all outstanding debt.

The promissory notes referred to above and the water royalty are secured by a first priority security and mortgage on the acquired assets, other than inventory and accounts receivable. The Seller retains the right to receive any water royalty payment for the first five years in shares of AMCON common stock up to a maximum of 41,666 shares. The water royalty can be cancelled after ten years have elapsed following the closing of the sale of assets of TSI, or if the business of TSI is sold to an unaffiliated third party, in which case the Seller would be entitled to receive the appraised fair market value of the water royalty but not less than \$5 million. The Company's Chairman has, in turn, guaranteed AMCON for these payments as well as the promissory notes referred to above.

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The acquisition has been recorded on the Company's books using the purchase method of accounting. The purchase price was allocated to the assets acquired and liabilities assumed based on their estimated fair values. The following table summarizes the estimated fair values of the assets acquired and liabilities assumed at the date of acquisition based on a preliminary allocation of the purchase price and are subject to refinement.

| At June 17, 2004 | |
|---------------------------|--------|
| (Dollars in millions) | |
| Current assets | \$ 0.5 |
| Fixed assets | 3.0 |
| Intangible assets | 5.5 |
| Total assets acquired | 9.0 |
| Current liabilities | 0.2 |
| Total liabilities assumed | 0.2 |
| Net assets acquired | \$ 8.8 |

The portion of the purchase price in excess of the estimated fair value of the net assets acquired to be allocated to identifiable intangible assets is approximately \$5.5 million.

The initial purchase price allocation performed in the third quarter of fiscal 2004 was based on management's internal preliminary allocation and resulted in an estimated purchase price of approximately \$11.1 million, with approximately \$7.8 million of the purchase price being allocated to intangible assets, including customer list, the Trinity tradename and the water source. Subsequently, the Company engaged an independent valuation firm to further analyze the transaction and based on preliminary input from the independent valuation firm, the amount of purchase price was reduced from \$11.1 million to \$8.8 million based on reassessment of the future water royalty obligation and related brokers fees and the weighted average cost of capital rate applied to the payment stream in perpetuity. Accordingly, the

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amount allocated to intangible assets was also reduced from \$7.8 million to \$5.5 million. At this stage, the purchase price allocation remains preliminary and is subject to completion of an independent appraisal. The Company has engaged an independent valuation firm to value the identifiable intangible assets and it is expected that a final report will be completed by the end of the second fiscal quarter of 2005, at which time any differences from the preliminary purchase price allocation will be recorded.

The Company has determined that it has acquired a unique water source as part of the transaction which represents an intangible asset and the Company has assigned a preliminary value of \$2.8 million to this intangible asset. Additionally, the Company has acquired the Trinity tradename and has assigned a preliminary value of \$2.3 million to this intangible asset. Upon completion of the independent valuation, the amount assigned to the water source and/or the Trinity tradename could be different and any residual amount would then be assigned to goodwill. Since both the water source and the Trinity tradename have indefinite lives, as does any goodwill, the assets are not amortized. Therefore, any change resulting from completion of the independent valuation in the allocation of purchase price from water source

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or tradename to goodwill would not have any impact on operating income. Additionally, the Company has assigned a preliminary value of \$0.4 million to a customer list which will be amortized over a five year period.

Assuming the above acquisition had hypothetically occurred on the first day of fiscal 2004 (September 27, 2003) unaudited pro forma consolidated sales, operating income, net loss and net loss per share would have been as follows:

| | For the three months ended December 2003 |
|--|---|
| ----- | |
| Sales | \$ 193,116,977 |
| Operating income | 1,473,166 |
| Net loss available to common shareholders | (89,277) |
| Loss per share: | |
| Basic | \$ (0.17) |
| Diluted | \$ (0.17) |

Nesco Hawaii

On July 1, 2004, the Company's water bottling subsidiary in Hawaii entered into an agreement to acquire certain water bottling assets and liabilities from a water bottling company on the island of Oahu in Hawaii ("Nesco Hawaii") for \$0.5 million in cash, and \$0.7 million in notes and the assumption of \$0.1 million of liabilities. The acquisition has been recorded on the Company's books using the purchase method of accounting. The purchase price was allocated to the assets acquired and liabilities assumed based on their estimated fair values. The preliminary allocation of the purchase price is as follows:

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| At July 1, 2004 (Dollars in millions) | |
|--|--------|
| ----- | |
| Current assets | \$ 0.1 |
| Fixed assets | 0.5 |
| Intangible assets | 0.7 |
| ----- | |
| Total assets acquired | 1.3 |
| Current liabilities | 0.1 |
| ----- | |
| Total liabilities assumed | 0.1 |
| ----- | |
| Net assets acquired | \$ 1.2 |
| ===== | |

The portion of the purchase price in excess of the estimated fair value of the net assets acquired to be allocated to identifiable intangible assets is approximately \$0.7 million. The identifiable intangible assets consists of

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tradenames and a customer list. The tradenames of \$0.1 million have indefinite lives and therefore are not amortized. The customer list of \$0.2 million is amortized over a five year period. The remaining portion of the excess purchase price allocated to goodwill was \$0.4 million. Proforma information is not presented due to the insignificance of the acquisition.

3. CONVERTIBLE PREFERRED STOCK

In October 2004, the Company issued \$2.0 million of Series B Convertible Preferred Stock ("Series B Preferred") representing 80,000 shares at a purchase price of \$25.00 per share (the "Liquidation Preference"). The Series B Preferred is 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 price is initially \$24.65 per share, but is subject to customary adjustments in the event of stock splits, stock dividends and certain other distributions on the Common Stock. Cumulative dividends on the Series B Preferred are payable at a rate of 6.37% per annum and 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 Series B 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 Series B Preferred also contains redemption features in certain circumstances such as a change of control, minimum thresholds of ownership by the Chairman and his family in AMCON, or bankruptcy. Finally, the Series B Preferred are optionally redeemable by the Company beginning October 8, 2006 at a redemption price equal to 112% of the Liquidation Preference. The redemption price decreases 1% annually thereafter until October 8, 2018, after which date it remains the Liquidation Preference.

In addition, the Company has Series A Convertible Preferred Stock ("Series A Preferred") outstanding as of December 2004 that was issued during fiscal 2004. The Series A Preferred generated gross proceeds of \$2.5 million and consisted of 100,000 Series A shares. All terms of the Series A Preferred are the same as Series B Preferred except for the dividend rate which is 6.785% for Series A, the conversion price which is \$30.31 per share for Series A and the Series A is optionally redeemable by the Company beginning June 17, 2006.

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The Company believes that redemption of these securities by the holders is not probable based on the following evaluation. As shown in the table under the caption "Ownership of Our Common Stock By Our Directors And Executive Officers And Other Principal Stockholder," in our proxy statement, our executive officers and directors as a group own approximately 64% of the outstanding common stock. Mr. William Wright, who has been AMCON's Chairman of the Board and Chief Executive Officer from the time AMCON was originally founded, beneficially owns 31% of the outstanding common stock without giving effect to shares owned by his adult children. There is an 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, the Series A Preferred Stock is owned by Mr. Wright and a private equity firm of which Mr. Petersen, one of our long-standing directors, is an owner of a significant portion of the equity. In addition, the Series B Preferred Stock is owned by an institutional investor which has elected its representative to AMCON's Board of Directors pursuant to voting rights in the Certificate of Designation creating the Series B Preferred Stock. The Series A and Series B Preferred

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Stock is thus in friendly hands with no expectation that there would be any effort by the holders of such preferred stock to seek optional redemption without the Board being supportive of the events that may trigger that right. In view of the foregoing, the Company believes that it is not probable under Rule 5-02.28 of Regulation S-X that either Series A or Series B Preferred Stock will become redeemable in the future as a result of redemption features described above. However, there can be no assurance that this will not occur.

As discussed in Note 12, these financial instruments have been classified as mezzanine financing between long-term debt and shareholders' equity in the balance sheet.

4. INVENTORIES:

Inventories consisted of the following at December 2004 and September 2004:

| | December 2004 | September 2004 |
|----------------|------------------|-------------------|
| | ----- | ----- |
| Finished goods | \$ 38,639,814 | \$ 38,194,478 |
| Raw materials | 945,642 | 926,237 |
| LIFO reserve | (4,131,037) | (4,032,147) |
| | ----- | ----- |
| | \$ 35,454,419 | \$ 35,088,568 |
| | ===== | ===== |

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. The wholesale distribution operation's inventories are stated at the lower of cost (last-in, first-out or "LIFO" method) or market and consists of the cost of finished goods. The retail health food operation utilizes the retail inventory method of accounting stated at the lower of cost (LIFO) or market and consists of the costs of finished goods. The beverage operation's inventories are stated at the lower of cost (LIFO) or market and consist of raw materials and finished goods. The beverage operation's finished goods inventory includes raw materials, related plant labor and manufacturing overhead costs to convert

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raw materials to finished goods. Raw materials inventory consists of pre-forms used to make bottles, caps, labels and various packaging and shipping materials. The LIFO reserve at December 2004 and September 2004 represents the amount by which LIFO inventories were less than the amount of such inventories valued on a first-in, first-out basis, respectively. An allowance for obsolete inventory is maintained in the retail health food and beverage segments to reflect the expected unsaleable or non-refundable inventory based on evaluation of slow moving and discontinued products.

5. GOODWILL AND OTHER INTANGIBLE ASSETS:

Goodwill by reporting segment at December 2004 and September 2004 was as follows:

| | December 2004 | September 2004 |
|-----------|------------------|-------------------|
| | ----- | ----- |
| Wholesale | \$ 3,935,931 | \$ 3,935,931 |

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| | | |
|----------|--------------|--------------|
| Retail | 2,155,465 | 2,155,465 |
| Beverage | 358,345 | 358,345 |
| | ----- | ----- |
| | \$ 6,449,741 | \$ 6,449,741 |
| | ===== | ===== |

Other intangible assets at December 2004 and September 2004 consisted of the following:

| | | |
|--|------------------|-------------------|
| | December 2004 | September 2004 |
| | ----- | ----- |
| Trademarks and tradenames | \$ 9,686,997 | \$ 9,680,521 |
| Water source | 2,807,000 | 2,807,000 |
| Covenants not to compete (less accumulated amortization of \$872,835 and \$843,527) | 47,390 | 76,698 |
| Favorable leases (less accumulated amortization of \$349,936 and \$340,003) | 136,064 | 145,997 |
| Customer lists (less accumulated amortization of (\$47,980 and \$26,285) | 539,300 | 560,995 |
| | ----- | ----- |
| | \$ 13,216,751 | \$ 13,271,211 |
| | ===== | ===== |

Goodwill, trademarks, tradenames and the water source are considered to have indefinite useful lives, therefore, no amortization is taken on these assets. Impairment of the reporting units carrying these assets is evaluated annually in the Company's fourth fiscal quarter in order to coincide with its budgeting process, unless circumstances dictate earlier evaluation is necessary.

Amortization expense for the intangible assets that are considered to have finite lives was \$60,936 and \$45,917 for the three months ended December 2004 and 2003, respectively.

Amortization expense related to the amortizing intangible assets held at December 2004 for each of the five years subsequent to September 2004 is estimated to be as follows:

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| | | | | | |
|--------------------------|--------------------|----------------|----------------|----------------|----------------|
| | Fiscal 2005 /1/ | Fiscal 2006 | Fiscal 2007 | Fiscal 2008 | Fiscal 2009 |
| | ----- | ----- | ----- | ----- | ----- |
| Covenants not to compete | \$ 47,000 | \$ - | \$ - | \$ - | \$ - |
| Favorable leases | 30,000 | 40,000 | 40,000 | 26,000 | - |
| Customer lists | 113,000 | 117,000 | 117,000 | 117,000 | 92,000 |
| | ----- | ----- | ----- | ----- | ----- |
| | \$ 190,000 | \$ 157,000 | \$157,000 | \$143,000 | \$ 92,000 |
| | ===== | ===== | ===== | ===== | ===== |

/1/ Fiscal 2005 amortization represents amortization of amortizable intangible assets for the remaining nine months of Fiscal 2005.

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6. EARNINGS (LOSS) PER SHARE:

Basic earnings (loss) per share available to common shareholders is calculated by dividing (loss) income available to common shareholders by the weighted average common shares outstanding for each period. Diluted earnings per share is calculated by dividing (loss) income available to common shareholders 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 2004 and 2003 that were anti-dilutive were not included in the computations of diluted earnings per share. Such potential common shares totaled 194,195 with an average exercise price of \$29.32 and 31,440 with an average exercise price of \$39.75, respectively.

| | For the three months ended December | | | |
|---|-------------------------------------|--------------|--------------|--------------|
| | 2004 | | 2003 | |
| | Basic | Diluted | Basic | Diluted |
| 1. Weighted average common shares outstanding | 527,062 | 527,062 | 528,165 | 528,165 |
| 2. Weighted average of net additional shares outstanding assuming dilutive options exercised and proceeds used to purchase treasury stock | - | 20,666 | - | 7,384 |
| 3. Weighted average number of shares outstanding | 527,062 | 547,728 | 528,165 | 535,549 |
| 4. Income from continuing operations | \$ 466,544 | \$ 466,544 | \$ 1,289,688 | \$ 1,289,688 |
| Deduct: preferred stock dividend requirements | (72,481) | - | - | - |
| Income from continuing operations available to common shareholders | 394,063 | 466,544 | 1,289,688 | 1,289,688 |
| 15 | | | | |
| 5. Loss from discontinued operations | \$ (479,622) | \$ (479,622) | \$ (775,444) | \$ (775,444) |
| 6. Net (loss) income available to common shareholders | \$ (85,599) | \$ (13,078) | \$ 514,244 | \$ 514,244 |
| 7. Earnings per share available to common shareholders from continuing operations | \$ 0.75 | \$ 0.85 | \$ 2.44 | \$ 2.41 |
| 8. (Loss) per share available | | | | |

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| | | | | |
|--|-----------|-----------|-----------|-----------|
| to common shareholders from from discontinued operations | \$ (0.91) | \$ (0.87) | \$ (1.47) | \$ (1.45) |
| | ===== | ===== | ===== | ===== |
| 9. (Loss) earnings per share available to common shareholders | \$ (0.16) | \$ (0.02) | \$ 0.97 | \$ 0.96 |
| | ===== | ===== | ===== | ===== |

7. COMPREHENSIVE INCOME (LOSS):

The following is a reconciliation of (loss) income available to common shareholders per the accompanying condensed consolidated unaudited statements of operations to comprehensive income for the periods indicated:

| | For the three months ended December | |
|---|--|------------|
| | 2004 | 2003 |
| | ----- | ----- |
| Net (loss) income available to common shareholders | \$ (85,599) | \$ 514,244 |
| Other comprehensive income: | | |
| Unrealized holding gains from investments arising during the period, net of income tax expense of \$5,000 in 2003 | - | 7,471 |
| Reclassification adjustments for gains included in net income in prior periods, net of income tax expense of \$145,000 in 2003 | - | (236,741) |
| Interest rate swap valuation adjustment, net of income tax expense \$25,000 and \$32,000, respectively | 40,423 | 50,702 |
| | ----- | ----- |
| Comprehensive income (loss) | \$ (45,176) | \$ 335,676 |
| | ===== | ===== |

The accumulated balances for each classification of accumulated comprehensive income (loss) is as follows:

| | Unrealized gains on securities | Interest rate swap mark-to -market | Accumulated Other Comprehensive Income |
|-----------------------------|--------------------------------------|---|---|
| | ----- | ----- | ----- |
| Balance, September 24, 2004 | \$ 2,638 | \$ 57,262 | \$ 59,900 |
| Current period change | - | 40,423 | 40,423 |
| | ----- | ----- | ----- |
| Balance, December 31, 2004 | \$ 2,638 | \$ 97,685 | \$ 100,323 |
| | ===== | ===== | ===== |

8. DEBT

CREDIT AGREEMENT

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In order to finance the payment of \$6.8 million in subordinated notes related to the Company's acquisition of Health Food Associates, Inc. in 1999 and \$4.8 million of long-term debt related to the funding of operations in the beverage segment and TBG, the Company refinanced its existing credit agreement in October 2004. The amended credit agreement provides for a \$55.0 million credit limit consisting of a \$53.8 million revolving credit line and a \$1.2 million term note ("Term Note A"). As payments are made on Term Note A, the revolving credit limit increases accordingly to a maximum of \$55.0 million. In addition, the amended credit agreement provided for a separate term loan in the amount of \$5.0 million ("Term Note B").

The Company's amended \$55.0 million revolving credit facility (the "New Facility") with LaSalle Bank extends the credit agreement through April 2007 and retains many of the existing facility's terms including lending limits subject to accounts receivable and inventory limitations, an unused commitment fee and financial covenants. The significant changes under the New Facility are as follows:

- Inclusion of the subsidiaries, except TSI, as borrowers.
- Inclusion of Term Note A within the \$55.0 million revolving limit that is amortized in equal monthly installments over 60 months.
- Replacement of the LIBOR interest rate borrowing option (LIBOR plus 2.50%) on the revolving portion of the New Facility and the \$1.2 million term loan with the bank's base rate, except for \$15.0 million of the new facility that corresponds with the Company's existing interest rate swap agreements which will remain at LIBOR plus 2.50%.
- Inclusion of a fixed charge coverage ratio of 0.8 to 1.0 through June 2005 and 1.0 to 1.0 thereafter in lieu of a debt service coverage ratio, which was subsequently amended in Q2 2005, effective December 2004 and decreased to 0.7 to 1.0.
- Amendment of the definition of minimum tangible net worth and reduction of the minimum tangible net worth requirement to \$3.0 million through June 2005 which was subsequently amended in Q2 2005, effective December 2004 and decreased to \$1.5 million through the end September 29, 2005 and \$2.5 million thereafter.
- Inclusion of a prepayment penalty of \$0.6 million and \$0.3 million should the loans be paid off prior to September 30, 2005 and September 30, 2006, respectively.

The Company's New Facility, including Term Note A, maintains the maximum borrowing limit at \$55.0 million, subject to eligible accounts receivable and inventory requirements. As of December 2004, the outstanding balance on the New Facility was \$53.4 million. The New Facility bears interest at the bank's base rate, which was 5.25% at December 2004. The Company is required to pay an unused commitment fee equal to 0.25% per annum on the difference between the maximum loan limit and the average monthly borrowing for the month. The New Facility is collateralized by all of the Company's equipment, intangibles, inventories, and accounts receivable, except those held by TSI.

The outstanding balance on Term Note B was \$5.0 million at December 2004. It bears interest at the bank's base rate, plus 2.0%, which was 7.25% at December 2004 and is payable in equal monthly installments of \$0.3 million beginning May 1, 2005.

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The Company's Chairman has personally guaranteed repayment of up to \$10 million of the combined amount of the New Facility and the term loans. AMCON will pay the Company's Chairman an annual fee equal to 2% of the guaranteed principal then outstanding in return for the personal guarantee. This guarantee is secured by a pledge of the shares of Chamberlin Natural Foods, Inc., Health Food Associates, Inc., HNBC and TSI.

The Company was not in compliance with the minimum tangible net worth covenant as of December 2004 and has obtained a waiver from the lender for first quarter of fiscal 2005. In Q2 2005, the minimum tangible net worth covenant was amended effective December 2004 to reduce the tangible net worth covenant to \$1.5 million through September 29, 2005 and \$2.5 million thereafter, and to redefine and reduce the fixed charge coverage ratio to 0.7 for the remainder of fiscal 2005. The Company is currently in compliance with the covenants of the New Facility, as amended, effective December 2004 and expects to be in compliance with the amended covenant for the remainder of fiscal 2005.

TSI REVOLVING CREDIT FACILITY

In December 2004, a director of the Company extended a revolving credit facility to TSI in a principal amount of up to \$1,000,000 at an interest rate of 8.0% per annum with an initial advance of \$500,000 during Q1 2005. To induce the director to extend this loan to TSI, the Company agreed to allow the director to receive a second mortgage on TSI's real property on an equal basis with the Company's existing second mortgage on TSI's real property. The revolving credit line matures on December 14, 2005 at which time principal and accrued interest will be due.

CONSTRUCTION FINANCING

In December 2004, the Company purchased a building in order to relocate its distribution facility in Rapid City, South Dakota and began construction of an addition to the building. The lease on the current Rapid City facility was extended through April 2005 to coincide with the completion of construction. The Company expects capital expenditures relating to the building, construction of the addition and related equipment purchases to be approximately \$1.8 million.

At December 2004, the Company had borrowed \$0.8 million from a bank of the \$1.0 million maximum borrowings intended to finance the purchase of the building and the construction of the addition to the building. The additional \$0.2 million of funds are expected to be borrowed in the second and third quarters of fiscal 2005 as the Company completes the addition. The terms of repayment are interest only through July 31, 2005 and then payable in 54 equal monthly installments of principal of \$4,100 based on a twenty year amortization schedule with the entire remaining principal due and payable on December 31, 2009. The interest rate is 6.33%.

The Company also arranged the financing of certain equipment expenditures totaling \$0.5 million through a loan from a bank, however at December 2004,

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the Company has not drawn on these funds. Once drawn upon, the principal payments will be made in 60 equal monthly installments of \$8,000 beginning April 1, 2005. The interest rate is 6.33%.

INTEREST RATE SWAPS

The Company hedges its variable rate risk on \$15.0 million of its borrowings

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under the Facility by utilizing interest rate swap agreements. The variable interest payable on this amount is subject to interest rate swap agreements which have the effect of converting this amount to fixed rates ranging between 4.38% and 4.87%.

9. BUSINESS SEGMENTS:

AMCON has three reportable business segments: the wholesale distribution of consumer products, the retail sale of health and natural food products, and the bottling and distribution of bottled water and other beverage products. As discussed in Note 13, TBG, a business component of the beverage segment ceased operations on March 31, 2005 and its assets accordingly are included in the "Other" column below. The segments are evaluated on revenue, gross margins, operating income (loss) and income (loss) before taxes.

| | Wholesale Distribution | Retail | Beverage | Other /2/ | Conso |
|-------------------------------------|---------------------------|------------|-------------|-----------|--------|
| | ----- | ----- | ----- | ----- | ----- |
| QUARTER ENDED DECEMBER 2004: | | | | | |
| External revenue: | | | | | |
| Cigarettes | \$ 155,561,138 | \$ - | \$ - | \$ - | \$ 155 |
| Confectionery | 14,038,345 | - | - | - | 14 |
| Health food | - | 8,574,131 | - | - | 8 |
| Tobacco, beverage & other | 34,240,324 | - | 2,013,796 | (41,106) | 36 |
| | ----- | ----- | ----- | ----- | ----- |
| Total external revenue | 203,839,807 | 8,574,131 | 2,013,796 | (41,106) | 214 |
| Depreciation /1/ | 291,298 | 194,531 | 170,465 | - | |
| Amortization | 21,657 | 17,583 | 21,696 | - | |
| Operating income (loss) | 2,239,819 | 137,997 | (953,922) | 16,362 | 1 |
| Interest expense | 261,260 | 401,501 | 243,440 | - | |
| Income (loss) before taxes | 2,024,309 | (249,865) | (1,197,362) | 16,362 | |
| Total assets | 70,482,360 | 17,287,930 | 21,517,742 | 2,288,573 | 111 |
| Capital expenditures | 1,404,329 | 6,656 | 109,859 | 21,568 | 1 |
| QUARTER ENDED DECEMBER 2003: | | | | | |
| External revenue: | | | | | |
| Cigarettes | \$ 141,234,663 | \$ - | \$ - | \$ - | \$ 141 |
| Confectionery | 12,386,357 | - | - | - | 12 |
| Health food | - | 8,169,000 | - | - | 8 |
| Tobacco, beverage & other | 30,100,823 | - | 727,048 | (46,187) | 30 |
| | ----- | ----- | ----- | ----- | ----- |
| Total external revenue | 183,721,843 | 8,169,000 | 727,048 | (46,187) | 192 |
| Depreciation /1/ | 295,466 | 195,736 | 43,475 | - | |
| Amortization | 21,657 | 24,259 | - | - | |
| Operating income (loss) | 2,079,718 | 277,874 | 1,344 | (39,706) | 2 |
| Interest expense | 294,749 | 298,681 | 122,195 | - | |
| Income (loss) before taxes | 2,207,135 | (12,891) | (120,850) | (39,706) | 2 |
| Total assets | 68,755,348 | 16,891,332 | 8,996,338 | 2,877,564 | 97 |
| Capital expenditures | 94,094 | 110,568 | 186,183 | 31,278 | |

/1/ Includes depreciation reported in cost of sales for the beverage segment.

/2/ Includes charges to operations incurred by discontinued operations and intercompany eliminations.

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10. RECENTLY ISSUED ACCOUNTING PRONOUNCEMENTS:

In November 2004, the Financial Accounting Standards Board ("FASB") issued Statement of Financial Accounting Standards (SFAS) No. 151 "Inventory Costs." This statement amends Accounting Research Bulletin No. 43, Chapter 4, "Inventory Pricing" and removes the "so abnormal" criterion that under certain circumstances could have led to the capitalization of these items. SFAS No. 151 requires that idle facility expense, excess spoilage, double freight and rehandling costs be recognized as current-period charges regardless of whether they meet the criterion of "so abnormal." SFAS 151 also requires that allocation of fixed production overhead expenses to the costs of conversion be based on the normal capacity of the production facilities. SFAS No. 151 is effective for all fiscal years beginning after June 15, 2005 (fiscal 2006 for AMCON). Management does not believe there will be a significant impact on the Company's results of operations or financial condition as a result of adopting this Statement.

In December 2004, the FASB issued Statement No. 123 (revised 2004) ("SFAS 123R), "Share-Based Payment." SFAS No. 123R will require the Company to measure the cost of all employee stock-based compensation awards based on the grant date fair value of those awards and to record that cost as compensation expense over the period during which the employee is required to perform service in exchange for the award (generally over the vesting period of the award). SFAS No. 123R is effective for the Company's fiscal 2006. Management is currently assessing the impact that this standard will have on the Company's financial position, results of operations and cash flows.

In December 2004, the FASB issued Statement No. 153, "Exchanges of Nonmonetary Assets," an amendment of APB Opinion No. 29, "Accounting for Nonmonetary Transactions." The amendments made by Statement 153 are based on the principle that exchanges of nonmonetary assets should be measured based on the fair value of the assets exchanged. Further, the amendments eliminate the narrow exception for nonmonetary exchanges of similar productive assets and replace it with a broader exception for exchanges of nonmonetary assets that do not have commercial substance. Previously, Opinion 29 required that the accounting for an exchange of a productive asset for a similar productive asset or an equivalent interest in the same or similar productive asset should be based on the recorded amount of the asset relinquished. The Statement is effective for nonmonetary asset exchanges occurring in fiscal periods beginning after June 15, 2005 (fiscal 2006 for the Company). Earlier application is permitted for nonmonetary asset exchanges occurring in fiscal periods beginning after the date of issuance. The Company is currently assessing the impact that this standard will have on the Company's financial position, results of operations and cash flows.

11. CONTINGENCIES

AMCON announced in May 2004 that it was filing suit against Trinity Springs, Ltd. in order to obtain an order from the United States District Court for the District of Idaho declaring that a majority of the votes entitled to be cast by the shareholders of Trinity Springs, Ltd. were cast in favor of the sale of substantially all of its assets to AMCON's subsidiary, TSL Acquisition Corp. and thereby satisfied the shareholder approval condition of the asset purchase transaction. Subsequent to AMCON's filing of its lawsuit,

the Inspectors of Election and the Board of Directors of Trinity Springs, Ltd. certified the shareholder voting results in favor of the asset purchase

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transaction.

After the certification of the voting results, certain minority shareholders filed a complaint and motion seeking injunctive relief in the District Court of the Fifth Judicial District of the State of Idaho. The Court granted a temporary restraining order on June 11, 2004, which prevented the closing of the asset purchase transaction until the Court had an opportunity to review additional briefing on the issues presented and the parties could be heard by the Court. On June 16, 2004, the Court heard arguments on whether to extend the temporary restraining order and grant the minority shareholders' motion for preliminary injunction. As a result of the parties' briefing and the arguments presented, the Court dissolved the temporary restraining order and thereby enabled the asset sale transaction to be consummated.

On July 19, 2004, several of the same minority shareholders, along with some additional shareholders filed an amended complaint in the same Idaho state court action. The minority shareholders' amended complaint seeks (i) a declaration that the asset sale transaction is void and injunctive relief rescinding that transaction or, alternatively, that a new shareholder vote on the asset sale transaction be ordered, (ii) damages for the alleged breaches of fiduciary duty which are claimed to have arisen out of the disclosure made in connection with the solicitation of proxies, how the votes were counted, and conducting the closing without the requisite shareholder vote, and (iii) imposition of a constructive trust on the sale proceeds and requiring separate books to be maintained. On the basis of advice from trial counsel, AMCON continues to believe that the shareholders of Trinity Springs, Ltd. approved the sale of assets to the Company in accordance with applicable law and that the asset sale transaction was properly completed.

The Company is also party to other lawsuits and claims arising out of the operation of its businesses. Management believes the ultimate resolution of such matters should not have a material adverse effect on the Company's financial condition, results of operations or liquidity after giving consideration to amounts already recorded in the Company's financial statements.

12. RESTATEMENT OF PREVIOUSLY ISSUED FINANCIAL STATEMENTS

Subsequent to the issuance of the Company's Form 10-Q for the quarter ended December 31, 2004, management and the Company's Audit Committee determined that the Company would restate its balance sheets as of September 24, 2004 and as of December 31, 2004 to reflect (i) a correction in the classification of Series A (issued in June 2004) and Series B (issued in October 2004) Preferred Stock from permanent equity to mezzanine financing, and (ii) a correction in the classification of its revolving credit facility from long-term to short-term debt. The balance sheet as of September 24, 2004 has been restated on Form 10-K/A filed with the Securities and Exchange Commission.

Under Emerging Issue Task Force ("EITF") Topic No. D-98, "Classification and Measurement of Redeemable Securities," the possibility of a redemption of securities that is not solely within the control of the issuer without regard to probability requires the security to be classified outside of permanent equity. The Certificate of Designation creating the Series A and

Series B Preferred Stock each contain provisions that give the holders the optional right to redeem such stock if either there is a change of control (as defined in the Certificate of Designation) or the Wright Family (as defined in the Certificate of Designation to include William F. Wright, the

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Company's Chief Executive Officer, Chairman of the Board and largest stockholder) beneficially owns less than 20% of the outstanding shares of common stock. The Company believes it is unlikely that either of those events will occur without support of the Board of Directors since the two owners of the Series A Preferred Stock and the sole owner of the Series B Preferred Stock each have a representative on the Board of Directors, the interests of the Company and those representatives are aligned, and the aggregate ownership of all of the Board members is in excess of two-thirds of the outstanding shares of common stock. However, there can be no assurance that this will not occur.

EITF 95-22 "Balance Sheet Classification of Borrowings Outstanding under Revolving Credit Agreements That Include both a Subjective Acceleration Clause and a Lock-Box Arrangement," requires borrowings under an agreement that includes both a subjective acceleration clause and a lock-box arrangement to be classified as short-term indebtedness. Because the Company's agreement contains both of these features, the borrowings have been restated to be classified as short-term for December 2004. The lending banks and the Company amended the revolving loan agreement after the Company's second fiscal quarter of 2005 to replace the lockbox provision with a springing lockbox arrangement that would require the Company's cash to be placed in a lockbox account that would be used to automatically pay down the revolving indebtedness subsequent to an event of default. EITF 95-22, nevertheless, requires the correction to the classification of the revolving credit facility for reports filed prior to such amendment to the revolving loan agreement.

These restatements do not impact amounts already reported as sales, net income (loss) available to common shareholders or earnings (loss) per share, nor will they result in a default under any provisions in the credit agreement.

A summary of the significant effects of the restatement is as follows:

| | December 31, 2004 | | | |
|--|---------------------------|---|---------------|----------|
| | As previously reported | Retroactive effect of discontinued operations - See Note 13 | Restatement | restated |
| Current liabilities | \$ 29,512,070 | \$ - | \$ 50,877,089 | \$80 |
| Long-term debt, less current portion | 61,622,121 | (3,281) | (50,877,089) | 10 |
| Series A cumulative, convertible preferred stock, \$.01 par value 100,000 authorized and issued, liquidation preference \$25.00 per share | - | - | 2,438,355 | 2 |
| Series B cumulative, convertible preferred stock, \$.01 par value 80,000 authorized and issued, liquidation preference \$25.00 per share | - | - | 1,857,645 | 1 |
| Shareholders' equity | 17,017,620 | - | (4,296,000) | 12 |

13. SUBSEQUENT EVENT

The Beverage Group, Inc.

Effective March 31, 2005, the Company's subsidiary, The Beverage Group, Inc. ("TBG") which comprised the beverage marketing and distribution business portion component of the beverage segment, ceased on-going operations due to recurring losses since its December 2002 inception. All TBG employees were terminated effective March 31, 2005 and the Company outsourced various responsibilities in order to maximize the value of the assets by collecting receivables and evaluating its payables. In addition, management is working to sell the remaining TBG inventory to unrelated beverage companies, distributors or liquidators. Our water bottling manufacturing subsidiaries in Hawaii (HNWC) and Idaho (TSI), which are also part of the beverage segment, were unaffected.

This transaction has been reflected as discontinued operations in the condensed consolidated unaudited financial statements in accordance with SFAS No. 144 "Accounting for the Impairment or Disposal of Long-Lived Assets" because it represents a component of an entity in which the operations and cash flows have (or will be) eliminated from the ongoing operations and the Company will not have any significant continuing involvement in the operations of TBG.

Sales from the discontinued operations, which have been excluded from income (loss) from continuing operations in the accompanying condensed consolidated unaudited statements of operations for the three month periods ended December 31, 2004 and December 26, 2003, are presented below. The effects of the discontinued operations on net (loss) income available to common shareholders and per share data are reflected within the accompanying condensed consolidated unaudited statements of operations.

| | Three months ended December | |
|-------|--------------------------------|---------------|
| | ----- 2004 | 2003 ----- |
| Sales | \$ 791,839 | \$ 465,413 |

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The carrying amount of the major classes of assets and liabilities that are included in the disposal group are as follows (in millions):

| | December 2004 | September 2004 |
|--|------------------|-------------------|
| | ----- | ----- |
| Accounts receivable | \$ 0.8 | \$ 0.5 |
| Inventories | 1.2 | 1.4 |
| | ----- | ----- |
| Total current assets of discontinued operations | \$ 2.0 | \$ 1.9 |
| | ===== | ===== |
| Fixed assets | \$ 0.2 | \$ 0.1 |
| | ===== | ===== |
| Accounts payable | \$ 0.3 | \$ 0.6 |
| Accrued expenses | 0.7 | 0.7 |
| Current portion of long-term debt | - | 0.9 |
| | ----- | ----- |
| Total current liabilities of discontinued operations | \$ 1.0 | \$ 2.2 |
| | ===== | ===== |

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

FORWARD LOOKING STATEMENTS

This Quarterly Report, 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, 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:

- changing market conditions with regard to cigarettes,
- changes in promotional and incentive programs offered by cigarette manufacturers,
- the demand for the Company's products,
- new business ventures,
- domestic regulatory risks,
- competition,
- other risks over which the Company has little or no control, and
- any other factors not identified herein could also have such an effect.

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 amended 2004 Annual Report to Shareholders on Form 10-K/A for the fiscal year ended September 24, 2004 filed with the Securities and Exchange Commission. There have been no significant changes with respect to these policies during fiscal 2005.

RESTATEMENT

As discussed in Note 12 to the condensed consolidated financial statements, subsequent to the issuance of the Company's Form 10-Q for the quarter ended December 31, 2004, management and the Company's Audit Committee determined that the Company would restate its balance sheets as of September 24, 2004 and as of December 31, 2004 to reflect (i) a correction in the classification of Series A (issued in June 2004) and Series B (issued in October 2004) Preferred Stock from permanent equity to mezzanine financing, and (ii) a correction in the classification of its revolving credit facility from long-term to short-term debt. The balance sheet as of September 24, 2004 has been restated on Form 10-K/A filed with the Securities and Exchange Commission.

Under Emerging Issue Task Force ("EITF") Topic No. D-98, "Classification and Measurement of Redeemable Securities," the possibility of a redemption of securities that is not solely within the control of the issuer without regard to probability requires the security to be classified outside of permanent equity. The Certificates of Designation creating the Series A and Series B Preferred Stock each contain provisions that give the holders the optional right to redeem such stock if either there is a change of control (as defined in the Certificates of Designation) or the Wright Family (as defined in the Certificates of Designation to include William F. Wright, the Company's Chief Executive Officer, Chairman of the Board and largest stockholder) beneficially owns less than 20% of the outstanding shares of common stock. The Company believes it is unlikely that either of those events will occur without support of the Board of Directors since the two owners of the Series A Preferred Stock and the sole owner of the Series B Preferred Stock each have a representative on the Board of Directors, the interests of the Company and those representatives are aligned, and the aggregate ownership of all of the Board members is in excess of two-thirds of the outstanding shares of common stock. However, there can be no assurance that this will not occur.

EITF 95-22 "Balance Sheet Classification of Borrowings Outstanding under Revolving Credit Agreements That Include both a Subjective Acceleration Clause and a Lock-Box Arrangement," requires borrowings under an agreement

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that includes both a subjective acceleration clause and a lock-box arrangement to be classified as short-term indebtedness. Because the Company's agreement contains both of these features, the borrowings have been restated to be classified as short-term for December 2004. The lending banks and the Company amended the revolving loan agreement after the Company's second fiscal quarter of 2005 to replace the lockbox provision with a springing lockbox arrangement that would require the Company's cash to be placed in a lockbox account that would be used to automatically pay down the revolving indebtedness only in the instance of an event of default. EITF 95-22, nevertheless, requires the correction to the classification of the revolving credit facility for reports filed prior to such amendment to the revolving loan agreement.

These restatements do not impact amounts already reported as sales, net income (loss) available to common shareholders or earnings (loss) per share, nor will they result in a default under any provisions in the credit agreement.

A summary of the significant effects of the restatement is as follows:

| | December 31, 2004 | | | |
|---|---------------------------|---|----------------------------|------|
| | As previously reported | Retroactive effect of discontinued operations - See Note 13 | Restatement See Note 12 | re |
| Current liabilities | \$ 29,512,070 | \$ - | \$ 50,877,089 | \$80 |
| Long-term debt, less current portion | 61,622,121 | (3,281) | (50,877,089) | 10 |
| Series A cumulative, convertible preferred stock, \$.01 par value 100,000 authorized and issued, liquidation preference \$25.00 per share | - | - | 2,438,355 | 2 |
| Series B cumulative, convertible preferred stock, \$.01 par value 80,000 authorized and issued, liquidation preference \$25.00 per share | - | - | 1,857,645 | 1 |
| Shareholders' equity | 17,017,620 | - | (4,296,000) | 12 |

DISCONTINUED OPERATIONS

In March 2005, the Company discontinued the operations of its beverage marketing and distribution business. As a result, the balance sheets as of December 31, 2004 and September 24, 2004 and the statements of operations and statements of cash flows for the fiscal quarters ended December 31, 2004 and December 26, 2003 have been prepared reflecting this disposition as discontinued operations in accordance with Statement of Financial Standards ("SFAS") No. 144 "Accounting for the Impairment or Disposal of Long-Lived Assets."

The accompanying management discussion and analysis and results of operations give effect to the restatements and to the discontinued operations subsequent event.

COMPANY OVERVIEW - FIRST FISCAL QUARTER 2005

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AMCON Distributing Company ("AMCON" or the "Company") is primarily engaged in the wholesale distribution business in the Great Plains and Rocky Mountain

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regions of the United States. In addition, AMCON operates thirteen retail health food stores and a non-alcoholic beverage business that includes natural spring and geothermal water bottling operations in Hawaii and Idaho. As used herein, unless the context indicates otherwise, the term "ADC" means the wholesale distribution segment and "AMCON" or the "Company" means AMCON Distributing Company and its consolidated subsidiaries.

During the first quarter of fiscal 2005, the Company:

- changed its reporting period from a 52-53 week year ending on the last Friday in September to a calendar month reporting period ending on September 30 which resulted in 14 weeks of operations during the first quarter of fiscal 2005 as compared to 13 weeks in Q1 2004.
- amended and restated its existing credit facility and security agreement in order to fund the payment of \$6.8 million in subordinated term debt in the retail segment and \$4.8 million of revolving debt in the beverage segment.
- completed a \$2.0 million private placement of Series B Convertible Preferred Stock, a portion of which was used to fund the payment of the subordinated debt described above.
- purchased a building in order to relocate its distribution facility in Rapid City, South Dakota to replace the existing facility which will continue to be leased until the new distribution facility is ready for operation in the third quarter of fiscal 2005.
- experienced a 11.3% increase in sales compared to the first quarter of fiscal 2004 primarily due to the extra week of operations which resulted from the change in reporting periods from fiscal month to calendar month.
- recognized a loss per diluted common share of \$0.02 for the three months ended December 2004 compared to earnings per diluted common share of \$0.96 in the same period of the prior year.
- suspended payment of dividends on its common stock in order to conserve capital to fund operations.

INDUSTRY SEGMENT OVERVIEWS

Wholesale Distribution Segment

The wholesale distribution of cigarettes and convenience store products has been significantly affected during the past year due to changing promotional programs implemented by the major cigarette manufacturers. Reductions in these promotional programs have caused wholesalers to react by increasing cigarette prices to retailers. This occurred for the first time at the beginning of fiscal 2004 without a corresponding price increase from manufacturers and occurred again at the beginning of the second quarter of fiscal 2004. The manufacturers followed by implementing promotional programs later in fiscal 2004 and then increased prices in Q1 2005 on certain brands. Based on these activities, it is difficult to predict how future changes in promotional programs will impact the Company and the industry in the future.

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As a result of one of the manufacturer program changes discussed above, certain small wholesalers filed suit against Philip Morris and RJ Reynolds alleging unfair trade practices. In addition, due to the heightened level of competition in the marketplace from both a wholesale and retail convenience store perspective, a number of wholesalers and retailers have sought bankruptcy protection, been acquired or are on the market to be sold. Therefore, we expect that competition and pressure on profit margins will continue to affect both large and small distributors and demand that distributors consolidate in order to become more efficient.

Retail Health Food Segment

The retail health food industry has experienced declining sales and gross profit over the past several periods and our retail health food segment has felt the impacts of this trend as well. The impact of reduced supplement sales resulting from unfavorable media coverage related to the government ban on ephedra based products and a general softening of the low-carb market coupled with continued expansion of low-carb offerings and sales through mainstream grocery channels has caused management to closely review all store locations for opportunities to close or relocate marginally performing stores, remodel and expand good performing stores and identify new locations for one or two additional stores in fiscal 2005.

Beverage Segment

With the discontinuation of The Beverage Group, Inc. in March 2005, which comprised the beverage marketing and distribution business portion of the beverage segment, the segment now consists of Hawaiian Natural Water Co., Inc. ("HNWC") and ("TBG") and Trinity Springs, Inc. ("TSI"). HNWC completed the construction of an expanded warehouse and packaging building at our plant on the Big Island in Hawaii in the first quarter of fiscal 2004 and management is hopeful that HNWC will now generate profits as we focus on expansion of our markets and take advantage of the new operations. In addition, the acquisition of a purified water bottling operations on the island of Oahu in Hawaii ("Nesco Hawaii") in Q4 2004 will better able us to compete in the private label water bottling channel and diversify our water production to include premium spring water and purified water. TSI, acquired in June 2004, bottles and sells geothermal bottled water and a natural mineral supplement. The company, which is an 85% owned subsidiary of AMCON, is now headquartered in Boise, Idaho. The TSI water and mineral supplements are currently sold primarily in health food stores where they represent the number one selling water products. The Company plans to extend the distribution channels for this water and mineral supplement outside the health food market.

Discontinued Operations

In management's discussion and analysis of the results of operations for Q1 2005 compared to Q1 2004, TBG's sales, gross profit (loss), selling, general and administrative, depreciation and amortization, interest, other expenses and income tax benefit have been aggregated and reported as a loss from discontinued operations in accordance with SFAS No. 144 "Accounting for the Impairment or Disposal of Long-Lived Assets" and is therefore not a component of the discussion of the aforementioned items.

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AMCON's fiscal first quarters ended on December 31, 2004 and December 26, 2003. For ease of discussion, these fiscal quarters are referred to herein as December 2004 and 2003, respectively or Q1 2005 and Q1 2004, respectively.

Comparison of the three months ended December 2004 and 2003

SALES

Sales for Q1 2005 increased 11.3%, or \$21.8 million, compared to Q1 2004. Sales are reported net of costs associated with sales incentives provided to retailers, totaling \$3.7 million and \$3.3 million, for Q1 2005 and Q1 2004, respectively. The increase in sales by business segment from Q1 2004 to Q1 2005 is as follows:

| | |
|-----------------------------------|-----------------|
| Wholesale distribution segment | \$ 20.1 million |
| Retail health food stores segment | 0.4 million |
| Beverage segment | 1.3 million |
| Intersegment eliminations | - million |
| | ----- |
| | \$ 21.8 million |
| | ===== |

Cigarette sales in the wholesale distribution business increased by \$14.3 million and the sales of tobacco, confectionary and other products contributed an additional \$5.8 million in Q1 2005 compared to Q1 2004. Of the increase in cigarette sales, \$10.4 million was a result of the change in our monthly reporting period which added an extra week of sales in Q1 2005 as compared to Q1 2004, \$0.7 million was attributable to price increases implemented by major cigarette manufacturers in December 2004 and \$3.2 million was due to a 2.4% increase in carton volume (excluding the extra week). Of the increase in tobacco, confectionary and other products, \$3.2 million was due to the extra week and \$2.6 million was attributable primarily to new business obtained through expansion of our market area. We continue to market our full service capabilities in an effort to differentiate our Company from competitors who utilize pricing as their primary marketing tool.

Sales from the retail health food segment during Q1 2005 increased by \$0.4 million when compared to Q1 2004 primarily due to the extra week of operations in Q1 2005 as compared to Q1 2004 resulting from the change in the Company's monthly reporting period. The retail health food segment experienced lower grocery sales of low carb products in Q1 2005 as these products continued to move to mainstream grocery channels.

The beverage segment accounted for \$2.0 million in sales for Q1 2005 compared to \$0.7 million in Q1 2004. TSI, which was acquired in June 2004, accounted for \$0.7 of the increase in sales. The addition of Nesco Hawaii increased sales in Q1 2005 by \$0.3 million. The remaining increase is primarily due to increased sales of Hawaiian Natural spring water, due to completion of plant construction in 2004 and a change to a new distributor in the Hawaii market in 2004 which added \$0.1 million to sales. The extra week of operations in Q1 2005 resulting from the change in the Company's monthly reporting period which increased sales by \$0.2 million as compared to Q1 2004.

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GROSS PROFIT

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.

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Some entities may classify such costs as a component of cost of sales. Cost of sales, a component used in determining gross profit, for wholesale and retail segments includes the cost of products purchased from manufacturers, less incentives that we receive which are netted against such costs. In the beverage segment, cost of sales includes the cost of the raw materials and related plant labor and manufacturing overhead costs required to convert raw materials into finished goods (including labor, warehousing, depreciation and utilities).

Gross profit increased 5.9%, or \$0.9 million, in Q1 2005 as compared to Q1 2004. Gross profit as a percent of sales decreased to 7.4% in Q1 2005 compared to 7.8% in Q1 2004. Gross profit by business segment is as follows: (dollars in millions)

| | Quarter ended | | Incr (Decr) |
|-----------------------------------|---------------|---------------|----------------|
| | December | | |
| | ----- 2004 | ----- 2003 | ----- |
| Wholesale distribution segment | \$ 12.2 | \$ 11.5 | \$ 0.7 |
| Retail health food stores segment | 3.4 | 3.4 | 0.0 |
| Beverage segment | 0.3 | 0.1 | 0.2 |
| | ----- | ----- | ----- |
| | \$ 15.9 | \$ 15.0 | \$ 0.9 |
| | ===== | ===== | ===== |

Items increasing gross profit during Q1 2005 from our wholesale distribution business as compared to Q1 2004 were \$0.6 million attributable to the extra week of operations resulting from the reporting period change, \$0.3 million due to cigarette price increases implemented by major cigarette manufacturers in December 2004, a decrease in the quarterly impact of the LIFO reserve of \$0.1 million and incentive payments of \$0.4 million received from a non-cigarette vendors based on the Company's buying volumes. These increases were offset primarily by a decrease in cigarette manufacturer promotional allowances of \$0.7 million resulting from changes in promotional programs.

Gross profit for the retail health food segment was flat at \$3.4 million compared with Q1 2004, including the extra week of operations which contributed approximately \$0.2 million in gross profit during the period.

Gross profit for the beverage segment increased in Q1 2005 primarily due to the incremental sales from TSI and Nesco Hawaii which were acquired in June 2004 and July 2004, respectively.

OPERATING EXPENSE

Operating expense includes selling, general and administrative expenses and depreciation and amortization. Selling, general and administrative expenses include costs related to our sales, warehouse, delivery and administrative departments for all segments. Specifically, purchasing and receiving costs, inspection costs, warehousing costs and costs of picking and loading customer

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orders are all classified as selling, general and administrative expenses. Our most significant expenses relate to employee costs, facility and equipment leases, transportation costs, insurance and professional fees.

In Q1 2005, operating expense increased 13.8% or approximately \$1.8 million in Q1 2005 compared to Q1 2004. The increase is primarily related to the extra week of operations which increased the amount of payroll and certain other expenses during Q1 2005 as compared to Q1 2004 and the addition of TSI in June 2004 which added \$1.0 million of additional operating expenses. In addition, the wholesale business had increases in bad debt expense and professional fees. The retail health food segment's operating expense increased slightly (\$0.1 million) as a result of the additional week in Q1 2005.

As a result of the above, operating income for Q1 2005 decreased \$0.9 million compared to Q1 2004.

INTEREST EXPENSE

Interest expense for Q1 2005 increased 26.6%, or \$0.2 million, during Q1 2005. The increase was primarily due to increases in the prime rate, which under the terms of the amended and restated credit facility, is the rate at which the Company primarily borrows and an increase in the Company's average borrowings of approximately \$14.7 million. On average, the Company's borrowing rates on its variable rate debt were 0.95% higher in Q1 2005 as compared to Q1 2004.

OTHER

Other income decreased \$0.4 million in Q1 2005 because of the sale of available-for-sale securities in Q1 2004 that did not recur in Q1 2005.

During Q1 2005, the Company paid preferred dividends of \$0.1 million on its Series A and B, Cumulative, Convertible Preferred Stock.

Minority interest in loss, net of tax, increased during the period (which decreased the net loss) by \$0.1 million in Q1 2005 due to the 15% ownership of TSI that is not owned by AMCON. Additionally, losses were not allocated due to the reduction of the third parties investment to zero as a result of the cumulative losses.

DISCONTINUED OPERATIONS

Effective March 31, 2005, the Company's beverage marketing and distribution business, TBG, ceased on-going operations due to recurring losses since its December 2002 inception. In Q1 2005, TBG incurred a net loss, net of tax of \$0.5 million as compared to a net loss, net of tax of \$0.8 million for the comparable period in fiscal 2004.

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The balance sheets as of December 31, 2004 and September 24, 2004 and the statements of operations and statements of cash flows for the fiscal quarters ended December 31, 2004 and December 26, 2003 have been prepared reflecting this disposition as discontinued operations in accordance with Statement of Financial Standards ("SFAS") No. 144 "Accounting for the Impairment or Disposal of Long-Lived Assets."

LIQUIDITY AND CAPITAL RESOURCES

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Overview

The Company requires cash to pay its operating expenses, purchase inventory and make capital investments and acquisitions of businesses. In general, the Company finances these cash needs from the cash flow generated by its operating activities and from borrowings, as necessary. During the three months ended December 31, 2004, the Company used \$2.2 million of cash from operating activities, primarily the result of quicker accounts receivable turns and an increase in accrued expenses offset by a reduction of our accounts payable. Our variability in cash flows from operating activities is heavily dependent on the timing of inventory purchases and seasonal fluctuations. For example, in the circumstance where we are "buying-in" to obtain favorable terms on particular product or to maintain our LIFO layers, we may have to retain the inventory for a period longer than the payment terms. This generates cash outflow from operating activities that we expect to reverse in a later period. Additionally, during the summer, which is our busiest time of the year, we generally carry larger inventory back stock to ensure high fill rates to maintain customer satisfaction. Our inventory levels fluctuate, but are usually at their highest levels in the third and fourth fiscal quarters. We generally experience reductions in inventory levels during the first fiscal quarter, as compared to year end, and maintain these levels until the beginning of the third fiscal quarter when we begin building for increased summer business.

Cash of \$1.5 million was utilized in investing activities during the Q1 2005 for capital expenditures primarily related to the purchase of a building so that we could relocate one of our wholesale distribution facilities. A significant portion of the cash flows used in investing activities were financed through the real estate term debt discussed below.

The Company generated net cash of \$4.3 million from financing activities in Q1 2005 primarily from borrowings of \$14.9 million on bank credit agreements and other long-term debt arrangements and the private placement of \$1.9 million of Series B Convertible Preferred Stock (net of costs incurred to issue the securities). Cash of \$12.0 million was used in financing activities in Q1 2005 to pay down revolving lines of credit totaling \$4.8 million used to fund our beverage segment and TBG, \$6.8 million in subordinated debt in the retail segment and other long-term debt totaling \$0.4 million. During Q1 2005, \$0.1 million was used to pay dividends on preferred stock and \$0.4 million was used to pay for costs incurred to amend and restate our revolving credit facility.

As of December 2004, the Company had cash on hand of \$0.9 million and negative working capital (current assets less current liabilities) of \$10.9 million. This compares to cash on hand of \$0.4 million and negative working capital of \$11.9 million as of September 2004. The Company's working capital is significantly impacted by the classification of the revolving credit

facility as a short-term obligation even though the New Facility does not expire until April 2007. The amounts on the credit facility (including the revolving credit facility, \$1.2 million Term A and \$5.0 million Term B Notes) classified as current were \$58.4 million and \$44.8 million at December 31, 2004 and September 24, 2004, respectively. The Company expects that the revolving credit facility would be reduced through net payments on the revolver of approximately \$5.0 million at both reporting periods and that working capital would be increased by the incremental difference. The Company's ratio of debt to equity is 5.68 at December 2004 compared to 5.37 in September 2004. For purposes of this calculation, the Series A and Series B Preferred Stock and other long-term liabilities (the water royalty) are

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excluded.

The Company's maximum revolving credit limit on the New Facility was \$53.8 million at December 31, 2004, however the amount available for use at any given time is subject to many factors including eligible accounts receivable and inventory balances that are evaluated on a daily basis. On December 31, 2004, the balance on the facility was \$52.3 million. Based on our collateral and the loan limits, there was approximately \$0.6 million of availability at December 31, 2004. During the three months ended December 31, 2004 our peak borrowing was \$52.9 million, our average borrowings were \$47.5 million and our average availability was \$4.7 million. Our availability to borrow under the New Facility generally decreases as inventory and accounts receivable levels go up because of the borrowing limitations that are placed on the collateralized assets.

The Company believes that funds generated from operations, supplemented as necessary with funds available under the New Facility will provide sufficient liquidity for the operation of its wholesale and retail businesses for the next twelve months. Management is presently negotiating with the lenders to bring TSI into the Company's revolving credit facility and with investors to privately place additional debt or equity to provide additional funding for TSI. Although management is optimistic that additional financing will be committed, the ultimate outcome of this financing is not certain at this time. If the Company is unable to raise the additional funds in the near future, plans for growth within TSI would be negatively impacted and could potentially impact the carrying value of the business.

Dividend Payments

During the first quarter of fiscal 2005, the Board of Directors suspended payment of cash dividends on our common shares. The Company is implementing a strategy to invest its cash resources into growth-oriented businesses and has therefore determined to suspend the payment of cash dividends on common stock for the foreseeable future. The Company will periodically revisit its dividend policy to determine whether it has adequate internally generated funds, together with other needed financing to fund its growth and operations in order to resume the payment of cash dividends on common stock.

Contractual Obligations

The following table summarizes our outstanding contractual obligations and commitments as of December 2004. Significant changes to this schedule since fiscal year end 2004, that are reflected below, are the amendment to the \$55.0 million credit facility to include a \$1.2 million term note ("Term Note A") which reduces the amount available under the \$55.0 million revolving

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limit by the amount outstanding under Term Note A, to include the subsidiaries, except TSI, as borrowers and to payoff \$4.8 million of revolving credit related to our beverage segment and TBG. In addition, the Company obtained a \$5.0 term note ("Term Note B") which was used in addition to funds raised from the Series B Convertible Preferred Stock offering to retire \$6.8 million of subordinated debt at the retail health food segment. (Amounts in thousands):

| Contractual | Payments Due By Period | | | | |
|-------------|------------------------|--------|--------|--------|--------|
| | Fiscal | Fiscal | Fiscal | Fiscal | Fiscal |
| | | | | | |

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| Obligations | Total | 2005/1/ | 2006 | 2007 | 2008 | 2009 | Thereafter |
|--|-------------------|------------------|------------------|-----------------|-----------------|-----------------|-----------------|
| Long-term debt/2/ | \$ 71,185 | \$ 7,806 | \$ 16,087 | \$44,040 | \$ 563 | \$ 2,084 | \$ 605 |
| Subordinated debt | 1,076 | 1,076 | - | - | - | - | - |
| Interest on long-term and subordinated debt/3/ | 8,492 | 2,948 | 3,371 | 1,630 | 184 | 346 | 13 |
| Operating leases | 19,108 | 4,037 | 4,489 | 2,712 | 1,963 | 1,505 | 4,402 |
| Minimum water royalty/4/ | 4,114 | 155 | 288 | 288 | 288 | 288 | 2,807 |
| Total | \$ 103,975 | \$ 16,022 | \$ 24,235 | \$48,670 | \$ 2,998 | \$ 4,223 | \$ 7,827 |

| Other Commercial Commitments | Total Amounts Committed | Fiscal 2005/1/ | Fiscal 2006 | Fiscal 2007 | Fiscal 2008 | Fiscal 2009 | Thereafter |
|---------------------------------|-------------------------------|-------------------|----------------|-----------------|----------------|----------------|-----------------|
| Lines of credit (LOC) | \$ 56,000 | \$ - | \$ 1,000 | \$55,000 | \$ - | \$ - | \$ - |
| LOC in use | (53,931) | - | (500) | (53,431) | - | - | - |
| LOC available | 2,069 | - | 500 | 1,569 | - | - | - |
| Water source guarantee | 5,000 | - | - | - | - | - | 5,000 |
| Letters of credit | 837 | 837 | - | - | - | - | - |
| Total | \$ 7,906 | \$ 837 | \$ 500 | \$ 1,569 | \$ - | \$ - | \$ 5,000 |

/1/ Includes remaining payments scheduled to be made in the last nine months of fiscal 2005.

/2/ Includes principal portion of capital leases totaling \$1.3 million.

/3/ Represents estimated interest payments on long-term debt, including capital leases and subordinated debt. Certain obligations contain variable interest rates. For illustrative purposes, the Company has projected future interest payments assuming that interest rates will remain unchanged and additionally, that the outstanding revolving credit facility balance will be reduced by \$5.0 million in Fiscal 2005 and 2006 with the remaining principal falling due when the agreement expires in April 2007

/4/ Fiscal 2005 - 2009 represent the annual minimum water royalty and the balance thereafter represents the minimum water royalty in perpetuity. Both amounts are representative of the present value of the obligation reflected in our balance sheet together with the imputed interest portions of required payments.

Credit Agreement

The Company's primary source of borrowing for liquidity purposes is its credit facility with LaSalle Bank (the "Facility"). As of December 2004, the outstanding balance on the Facility was \$58.4 million including Term Note A (\$1.2 million) and Term Note B (\$5.0 million). In October 2004, the Facility was amended (the "New Facility") to transfer \$1.2 million of revolving debt to term debt and add the subsidiaries, except TSI, as borrowers. The New Facility bears interest at a variable rate equal to the bank's base rate,

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which was 5.25% at December 2004. The Company may, however, select a rate equal to LIBOR plus 2.50%, for an amount of the New Facility up to \$15.0 million which relates to our swap agreements. The New Facility continues to restrict borrowings for intercompany advances to TBG and TSI to \$1.0 million in the aggregate and to the retail health food subsidiaries and HNWC to \$0.9 million in the aggregate in fiscal 2005 and \$0.1 million in the aggregate in subsequent years.

The Company hedges its variable rate risk on a notional \$15.0 million of its borrowings under the New Facility by use of interest rate swap agreements. These swap agreements have the effect of converting the interest on this amount of debt to fixed rates ranging between 4.38% and 4.87% per annum.

The Company is required to pay an unused commitment fee equal to 0.25% per annum on the difference between the maximum loan limit and average monthly borrowing for the month. The New Facility is collateralized by all of the Company's equipment, intangibles, inventories, and accounts receivable, except those held by TSI. The New Facility expires in April 2007.

The New Facility contains covenants which, among other things, set certain financial ratios and net worth requirements. The New Facility includes covenants that (i) restrict permitted investments, (ii) restrict intercompany advances to certain subsidiaries as described above, (iii) restrict incurrence of additional debt, (iv) restrict mergers and acquisitions and changes in business or conduct of business and (v) require the maintenance of certain financial ratios and net worth levels including an average annual fixed charge ratio of 0.8 to 1.0, and a minimum tangible net worth of \$3.0 million through June 2005 and increases to \$3.5 million in September 2005. The Facility also provides that the Company may not pay dividends on its common stock in excess of \$0.72 per share on an annual basis. The Company was not in compliance with the minimum tangible net worth covenant as of December 2004 and has obtained a waiver from the lender for first quarter of fiscal 2005. In Q2 2005, the minimum tangible net worth covenant was amended effective December 2004 to reduce the tangible net worth covenant to \$1.5 million through September 29, 2005 and \$2.5 million thereafter, and to redefine and reduce the minimum fixed charge coverage ration to 0.7 for the remainder of fiscal 2005. The Company is currently in compliance with the covenants of the New Facility, as amended, effective December 2004 and expects to be in compliance with the amended covenant for the remainder of fiscal 2005.

In addition, the Company obtained Term Note B, which had an outstanding balance of \$5.0 million at December 2004. Term Note B bears interest at the bank's base rate plus 2.00%, which was 7.25% at December 2004 and is required to be repaid in eighteen monthly installments of \$0.3 million beginning March 2005.

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The Company's Chairman has personally guaranteed repayment of up to \$10 million of the combined amount of the New Facility and the term loans. AMCON will pay the Company's Chairman an annual fee equal to 2% of the guaranteed principal in return for the personal guarantee. This guarantee is secured by a pledge of the shares of Chamberlin Natural Foods, Inc., Health Food Associates, Inc., HNWC and TSI.

The Company's \$2.8 million and \$2.0 million credit facilities with a bank which were used to fund operating activities of our beverage segment were eliminated in October 2004 as they were brought into the Company's revolving credit facility as part of the debt restructuring transaction.

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Preferred Stock

In October 2004 the Company completed a \$2.0 million private placement of Series B Convertible Preferred Stock representing 80,000 shares at \$25 per share, the proceeds of which were used in combination with funds from Term Note B to retire \$6.8 million of subordinated debt.

Real Estate Term Debt

In December 2004, the Company purchased a distribution facility in Rapid City, South Dakota and began construction of an addition to the building. The lease on the current Rapid City facility was extended to coincide with the completion of construction in the second quarter of fiscal 2005. The Company expects capital expenditures relating to the building, construction of the addition and related equipment purchases to be approximately \$1.8 million. The Company has arranged permanent financing for the building and equipment in an amount equal to 80% of the acquisition cost or approximately \$1.5 million. The remainder of the capital expenditures related to the building and the building addition will be provided from the New Facility.

TSI Revolving Debt

In December 2004, a director of the Company extended a revolving credit facility to TSI in a principal amount of up to \$1.0 million at an interest rate of 8% per annum with an initial advance of \$0.5 million. To induce the director to extend this loan to TSI, the Company agreed to allow the director to receive a second mortgage on TSI's real property on an equal basis with the Company's existing second mortgage on TSI's real property.

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 Gold Bank (the "Gold Bank Loans"), who is also a participant lender on the Company's revolving line of credit. The Gold Bank Loans contain cross default provisions which cause all loans with Gold Bank to be considered in default if any one of the loans where Gold Bank is a lender, including the revolving credit facility, is in default. Since Gold Bank approved the waivers of the covenant violations in the Facility, the Gold Bank Loans are not considered to be in default.

In addition, the Gold Bank Loans contain co-terminus provisions which require all loans with Gold Bank to be paid in full if any of the loans are paid in full prior to the end of their specified terms.

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CERTAIN ACCOUNTING CONSIDERATIONS

In December 2004, the FASB issued Statement No. 123 (revised 2004) (SFAS 123R), "Share-Based Payment." SFAS No. 123R will require the Company to measure the cost of all employee stock-based compensation awards based on the grant date fair value of those awards and to record that cost as compensation expense over the period during which the employee is required to perform service in exchange for the award (generally over the vesting period of the award). SFAS No. 123R is effective for the Company's fiscal 2006. Management is currently assessing the impact that this standard will have on the Company's financial position, results of operations and cash flows.

OFF-BALANCE SHEET ARRANGEMENTS

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The Company does not have any off-balance sheet arrangements that have or are reasonably expected to have a material effect on the Company's financial position or results of operations.

RELATED PARTY TRANSACTIONS

As described under the headings LIQUIDITY AND CAPITAL RESOURCES - Credit Facilities and TSI Revolving Debt, the Company's Chairman has personally guaranteed repayment of certain obligations of the Company and is being paid a guarantee fee for that service. In addition, a director of the Company has extended a \$1.0 million revolving line of credit to TSI.

Item 3. Quantitative and Qualitative Disclosures About Market Risk.

The Company is exposed to interest rate risk on its variable rate debt. At December 2004, we had \$43.4 million of variable rate debt outstanding (excluding \$15.0 million variable rate debt which is fixed through the swaps described below), with maturities through April 2007. The interest rate on this debt was 5.25% at December 2004. We estimate that our annual cash flow exposure relating to interest rate risk based on our current borrowings is approximately \$0.4 million for each 1% change in our lender's prime interest rate.

In June 2003, the Company entered into two interest rate swap agreements with a bank in order to mitigate the Company's exposure to interest rate risk on this variable rate debt. Under the agreements, the Company agrees to exchange, at specified intervals, fixed interest amounts for variable interest amounts calculated by reference to agreed-upon notional principal amounts of \$10.0 million and \$5.0 million. The interest rate swaps effectively convert \$15.0 million of variable-rate senior debt to fixed-rate debt at rates of 4.87% and 4.38% on the \$10.0 million and \$5.0 million notional amounts through the maturity of the swap agreements on June 2, 2006 and 2005, respectively. These interest rate swap agreements have been designated as hedges and are accounted for as such for financial accounting purposes.

We do not utilize financial instruments for trading purposes and hold no derivative financial instruments other than the interest rate swaps which could expose us to significant market risk.

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Item 4. Controls and Procedures

The Company maintains disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) that are designed to ensure that information required to be disclosed in the Company's reports under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the rules and forms of the Securities and Exchange Commission, and that such information is accumulated and communicated to the Company's management, including its Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosures. Any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives. As set forth below, our Chief Executive Officer and Chief Financial Officer concluded that, as of the end of the period covered by this report, the design and operation of these disclosure controls and procedures were ineffective.

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As more fully described in Note 12 of the Company's condensed consolidated unaudited financial statements for the period ended December 2004, the Company has restated its December 2004 consolidated balance sheet to correct classification errors of the Series A and B Preferred Stock and the Company's revolving credit facility. The Company's Chief Executive Officer and Chief Financial Officer concluded that a material weakness (as defined under standards established by the American Institute of Certified Public Accountants) existed in the Company's disclosure controls and procedures with respect to the application of accounting guidance contained in certain Emerging Issues Task Force Applications ("EITFs") and other accounting standards relating to the Company's recent financing transactions. This material weakness resulted in the restatements described above. The Company has enhanced the training of our accounting staff and required periodic review of a wider variety of current technical accounting literature to obtain a reasonable level of assurance that all appropriate accounting guidance is applied to the classification of indebtedness it incurs and equity securities it issues which we believe has corrected this material weakness.

PART II - OTHER INFORMATION

Item 1. Legal Proceedings

AMCON announced in May 2004 that it was filing suit against Trinity Springs, Ltd. in order to obtain an order from the United States District Court for the District of Idaho declaring that a majority of the votes entitled to be cast by the shareholders of Trinity Springs, Ltd. were cast in favor of the sale of substantially all of its assets to AMCON's subsidiary, TSL Acquisition Corp. and thereby satisfied the shareholder approval condition of the asset purchase transaction. Subsequent to AMCON's filing of its lawsuit, the Inspectors of Election and the Board of Directors of Trinity Springs, Ltd. certified the shareholder voting results in favor of the asset purchase transaction.

After the certification of the voting results, certain minority shareholders filed a complaint and motion seeking injunctive relief in the District Court of the Fifth Judicial District of the State of Idaho. The Court granted a temporary restraining order on June 11, 2004, which prevented the closing of the asset purchase transaction until the Court had an opportunity to review

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additional briefing on the issues presented and the parties could be heard by the Court. On June 16, 2004, the Court heard arguments on whether to extend the temporary restraining order and grant the minority shareholders' motion for preliminary injunction. As a result of the parties' briefing and the arguments presented, the Court dissolved the temporary restraining order and thereby enabled the asset sale transaction to be consummated.

On July 19, 2004, several of the same minority shareholders, along with some additional shareholders filed an amended complaint in the same Idaho state court action. The minority shareholders' amended complaint seeks (i) a declaration that the asset sale transaction is void and injunctive relief rescinding that transaction or, alternatively, that a new shareholder vote on the asset sale transaction be ordered, (ii) damages for the alleged breaches of fiduciary duty which are claimed to have arisen out of the disclosure made in connection with the solicitation of proxies, how the votes were counted, and conducting the closing without the requisite shareholder vote, and (iii) imposition of a constructive trust on the sale proceeds and requiring separate books to be maintained. On the basis of advice from trial counsel,

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AMCON continues to believe that the shareholders of Trinity Springs, Ltd. approved the sale of assets to the Company in accordance with applicable law and that the asset sale transaction was properly completed.

The Company is also party to other lawsuits and claims arising out of the operation of its businesses. Management believes the ultimate resolution of such matters should not have a material adverse effect on the Company's financial condition, results of operations or liquidity after giving consideration to amounts already recorded in the Company's financial statements.

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

In October 2004, the Company completed a \$2.0 million private placement of Series B Convertible Preferred Stock representing 80,000 shares at \$25.00 per share which was primarily used in part to fund subordinated debt obligations of the Company. The Series B Convertible Preferred Stock is senior to the Company's outstanding common stock and provides for preferential treatment for preferred shareholders in the event of distributions, proceeds upon liquidation of the Company or the redemption of the stock.

The Series B Convertible Preferred Stock is 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 price is initially \$24.65 per share, but is subject to customary adjustments in the event of stock splits, stock dividends and certain other distributions on the Common Stock.

This transaction was affected in reliance upon exemption for securities registration provided by Section 4(ii) of the Securities Act of 1933 and Rule 506 of Regulation (D) thereunder.

Item 3. Defaults Upon Senior Securities

During the fiscal quarter ended December 2004, our minimum tangible net worth dropped below that required by the New Facility. LaSalle has waived this default and we have entered into an amendment to the Credit Agreement effective December 31, 2004 which reduced the minimum tangible net worth

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covenant requirement to \$1.5 million to September 29, 2005 and \$2.5 million thereafter, and redefined and reduced the minimum fixed charge coverage ratio to 0.7 million for the remainder of fiscal 2005.

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

There were no submission of matters to a vote of security holders to be reported during the first quarter ended December 31, 2004.

Item 5. Other Information

There is no other information to be reported during the first quarter ended December 31, 2004.

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Item 6. Exhibits

(a) EXHIBITS

- 2.1 Assets Purchase and Sale Agreement by and between Food For Health Company, Inc., AMCON Distributing Company and Tree of Life, Inc. dated March 8, 2001 (incorporated by reference to Exhibit 2.1 of AMCON's Current Report on Form 8-K filed on April 10, 2001)
- 2.2 Amendment to Assets Purchase and Sale Agreement by and between Food For Health Company, Inc., AMCON Distributing Company and Tree of Life, Inc. effective March 23, 2001 (incorporated by reference to Exhibit 2.2 of AMCON's Current Report on Form 8-K filed on April 10, 2001)
- 2.3 Asset Purchase Agreement, dated February 8, 2001, between AMCON Distributing Company, Merchants Wholesale Inc. and Robert and Marcia Lansing (incorporated by reference to Exhibit 2.1 of AMCON's Current Report on Form 8-K filed on June 18, 2001)
- 2.4 Addendum to Asset Purchase Agreement, dated May 30, 2001, between AMCON Distributing Company, Merchants Wholesale Inc. and Robert and Marcia Lansing (incorporated by reference to Exhibit 2.2 of AMCON's Current Report on Form 8-K filed on June 18, 2001)

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- 2.5 Real Estate Purchase Agreement, dated February 8, 2001, between AMCON Distributing Company and Robert and Marcia Lansing (incorporated by reference to Exhibit 2.3 of AMCON's Current Report on Form 8-K filed on June 18, 2001)
- 2.6 Addendum to Real Estate Purchase Agreement, dated May 30, 2001, between AMCON Distributing Company and Robert and Marcia Lansing (incorporated by reference to Exhibit 2.4 of AMCON's Current Report on Form 8-K filed on June 18, 2001)
- 2.7 Asset Purchase Agreement, dated April 24, 2004, between TSL Acquisition Corp., AMCON Distributing Company and Trinity Springs, Ltd. (incorporated by reference to Exhibit 2.8 of AMCON's Quarterly Report on Form 10-Q filed on August 9, 2004)
- 2.8 First Amendment to Asset Purchase Agreement dated June 17, 2004 between TSL Acquisition Corp., AMCON Distributing Company and Trinity Springs, Ltd. (incorporated by reference to Exhibit 2.9 of AMCON's Quarterly Report on Form 10-Q filed on August 9, 2004)
- 3.1 Restated Certificate of Incorporation of the Company, as amended May 11, 2004 (incorporated by reference to Exhibit 3.1 of AMCON's Quarterly Report on Form 10-Q filed on August 9, 2004)
- 3.2 Bylaws of the Company (incorporated by reference to Exhibit 3.2 of AMCON's Registration Statement on Form S-1 (Registration No. 33-82848) filed on August 15, 1994)

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- 3.3 Second Corrected Certificate of Designations, Preferences and Rights of Series A Convertible Preferred Securities of AMCON Distributing Company dated August 5, 2004 (incorporated by reference to Exhibit 3.3 of AMCON's Quarterly Report on Form 10-Q filed on August 9, 2004)
- 3.4 Certificate of Designations, Preferences and Rights of Series B Convertible Preferred Securities of AMCON Distributing Company dated October 8, 2004 (incorporated by reference to Exhibit 3.4 of AMCON's Annual Report on Form 10-K filed on January 7, 2005)
- 4.1 Specimen Common Stock Certificate (incorporated by reference to Exhibit 4.1 of AMCON's Registration Statement on Form S-1 (Registration No. 33-82848) filed on August 15, 1994)
- 4.2 Specimen Series A Convertible Preferred Stock Certificate (incorporated by reference to Exhibit 4.2 of AMCON's Quarterly Report on Form 10-Q filed on August 9, 2004)
- 4.3 Specimen Series B Convertible Preferred Stock Certificate (incorporated by reference to Exhibit 3.4 of AMCON's Annual Report on Form 10-K filed on January 7, 2005)
- 4.4 Securities Purchase Agreement dated June 17, 2004 between AMCON Distributing Company, William F. Wright and Draupnir, LLC (incorporated by reference to Exhibit 4.3 of AMCON's Quarterly Report on Form 10-Q filed on August 9, 2004)

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- 4.5 Securities Purchase Agreement dated October 8, 2004 between AMCON Distributing Company and Spencer Street Investments, Inc. (incorporated by reference to Exhibit 3.4 of AMCON's Annual Report on Form 10-K filed on January 7, 2005)
- 10.1 Amended and Restated Loan and Security Agreement, dated September 30, 2004, between the Company and LaSalle National Bank, as agent (incorporated by reference to Exhibit 3.4 of AMCON's Annual Report on Form 10-K filed on January 7, 2005)
- 10.2 First Amended and Restated AMCON Distributing Company 1994 Stock Option Plan (incorporated by reference to Exhibit 10.17 of AMCON's Current Report on Form 10-Q filed on August 4, 2000)
- 10.3 AMCON Distributing Company Profit Sharing Plan (incorporated by reference to Exhibit 10.8 of Amendment No. 1 to the Company's Registration Statement on Form S-1 (Registration No. 33-82848) filed on November 8, 1994)
- 10.4 Employment Agreement, dated May 22, 1998, between the Company and William F. Wright (incorporated by reference to Exhibit 10.14 of AMCON's Quarterly Report on Form 10-Q filed on August 6, 1998)*
- 10.5 Employment Agreement, dated May 22, 1998, between the Company and Kathleen M. Evans (incorporated by reference to Exhibit 10.15 of AMCON's Quarterly Report on Form 10-Q filed on August 6, 1998)*
- 10.6 Director and Officer Compensation (incorporated by reference to Exhibit 10.8 of AMCON's Quarterly Report on Form 10-Q filed on May 27, 2005)
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- 10.7 Agreement, dated December 10, 2004 between AMCON Distributing Company and William F. Wright with respect to split dollar life insurance (incorporated by reference to Exhibit 3.4 of AMCON's Annual Report on Form 10-K filed on January 7, 2005)*
- 10.8 Agreement, dated December 15, 2004 between AMCON Distributing Company and Kathleen M. Evans with respect to split dollar life insurance (incorporated by reference to Exhibit 3.4 of AMCON's Annual Report on Form 10-K filed on January 7, 2005)*
- 10.9 ISDA Master Agreement, dated as of May 12, 2003 between the Company and LaSalle Bank National Association (incorporated by reference to Exhibit 10.13 of AMCON's Quarterly Report on Form 10-Q filed on August 11, 2003)
- 10.10 Swap Transaction Confirmation (\$10,000,000) dated as of May 23, 2003 between the Company and LaSalle Bank National Association (incorporated by reference to Exhibit 10.14 of AMCON's Quarterly Report on Form 10-Q filed on August 11, 2003)
- 10.11 Swap Transaction Confirmation (\$5,000,000) dated as of May 23, 2003 between the Company and LaSalle Bank National Association (incorporated by reference to Exhibit 10.15 of AMCON's Quarterly Report on Form 10-Q filed on August 11, 2003)
- 10.12 Promissory Note (\$2,828,440), dated as of June 17, 2004 between the Company and Trinity Springs, Ltd. (incorporated by reference to Exhibit

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- 10.15 of AMCON's Quarterly Report on Form 10-Q filed on August 9, 2004)
- 10.13 Promissory Note (\$500,000), dated as of June 17, 2004 between the Company and Trinity Springs, Ltd. (incorporated by reference to Exhibit 10.16 of AMCON's Quarterly Report on Form 10-Q filed on August 9, 2004)
- 10.14 Security Agreement, dated June 17, 2004 by and between TSL Acquisition Corp., AMCON Distributing Company and Trinity Springs, Ltd. (incorporated by reference to Exhibit 10.17 of AMCON's Quarterly Report on Form 10-Q filed on August 9, 2004)
- 10.15 Shareholders Agreement, dated June 17, 2004, by and between TSL Acquisition Corp, AMCON Distributing Company and Trinity Springs, Ltd. (incorporated by reference to Exhibit 10.18 of AMCON's Quarterly Report on Form 10-Q filed on August 9, 2004)
- 10.16 Guaranty and Suretyship Agreement, dated June 17, 2004, by and between AMCON Distributing Company and Trinity Springs, Ltd. (incorporated by reference to Exhibit 10.19 of AMCON's Quarterly Report on Form 10-Q filed on August 9, 2004)
- 10.17 Mortgage, dated June 17, 2004, by and between TSL Acquisition Corp., AMCON Distributing Company and Trinity Springs, Ltd. (incorporated by reference to Exhibit 10.20 of AMCON's Quarterly Report on Form 10-Q filed on August 9, 2004)

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- 10.18 Guaranty Fee, Reimbursement and Indemnification Agreement, dated as of September 30, 2004, between AMCON Distributing Company and William F. Wright (incorporated by reference to Exhibit 3.4 of AMCON's Annual Report on Form 10-K filed on January 7, 2005)
- 10.19 Unconditional Guaranty, dated as of September 30, 2004 between William F. Wright and LaSalle Bank, N.A. (incorporated by reference to Exhibit 3.4 of AMCON's Annual Report on Form 10-K filed on January 7, 2005)
- 10.20 Secured Promissory Note (\$1,000,000), dated December 14, 2004, issued by Trinity Springs, Inc. to Allen D. Petersen (incorporated by reference to Exhibit 3.4 of AMCON's Annual Report on Form 10-K filed on January 7, 2005)
- 10.21 Modification and Extension of Second Lien Commercial Mortgage, Assignment of Leases and Rents, and Fixture Filing, dated as of December 14, 2004 between Trinity Springs, Inc. and Allen D. Petersen (incorporated by reference to Exhibit 3.4 of AMCON's Annual Report on Form 10-K filed on January 7, 2005)
- 10.22 Term Real Estate Promissory Note, dated December 21, 2004, issued by AMCON Distributing Company to Gold Bank (incorporated by reference to Exhibit 10.21 of AMCON's Quarterly Report on Form 10-Q filed on February 14, 2005)
- 10.23 Term Equipment Promissory Note, dated December 21, 2004 issued by AMCON Distributing Company to Gold Bank (incorporated by reference to Exhibit 10.22 of AMCON's Quarterly Report on Form 10-Q filed on February 14, 2005)
- 10.24 One Hundred Eighty Day Redemption Mortgage and Security Agreement by

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and between AMCON Distributing Company and Gold Bank (incorporated by reference to Exhibit 10.23 of AMCON's Quarterly Report on Form 10-Q filed on February 14, 2005)

- 10.25 Security Agreement by and between AMCON Distributing Company and Gold Bank (incorporated by reference to Exhibit 10.24 of AMCON's Quarterly Report on Form 10-Q filed on February 14, 2005)
- 11.1 Statement re: computation of per share earnings (incorporated by reference to footnote 4 to the financial statements which are incorporated herein by reference to Item 1 of Part I herein)
- 14.1 Code of Ethics for Principal Executive and Financial Officers (incorporated by reference to Exhibit 14.1 of AMCON's Annual Report on Form 10-K filed on December 24, 2003)
- 31.1 Certification by William F. Wright, Chairman and Principal Executive Officer, furnished pursuant to section 302 of the Sarbanes-Oxley Act
- 31.2 Certification by Michael D. James, Vice President and Chief Financial Officer, furnished pursuant to section 302 of the Sarbanes-Oxley Act
- 32.1 Certification by William F. Wright, Chairman and Principal Executive Officer, furnished pursuant to section 906 of the Sarbanes-Oxley Act

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- 32.2 Certification by Michael D. James, Vice President and Chief Financial Officer, furnished pursuant to section 906 of the Sarbanes-Oxley Act

* Represents management contract or compensation plan or arrangement.

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, hereunto duly authorized.

AMCON DISTRIBUTING COMPANY
(registrant)

Date: August 19, 2005 /s/ William F. Wright

 William F. Wright
 Chairman of the Board and
 Principal Executive Officer

Date: August 19, 2005 /s/ Michael D. James

 Michael D. James
 Treasurer & CFO and
 Principal Financial and
 Accounting Officer

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