

Comstock Homebuilding Companies, Inc.

Form 10-Q/A

November 23, 2009

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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 September 30, 2009

.. **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 1-32375

Comstock Homebuilding Companies, Inc.

(Exact name of registrant as specified in its charter)

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Delaware
(State or other jurisdiction of
incorporation or organization)

20-1164345
(I.R.S. Employer
Identification No.)

11465 Sunset Hills Road

5th Floor

Reston, Virginia 20190

(703) 883-1700

(Address including zip code, and telephone number,
including area code, of principal executive offices)

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 NO

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate website, if any, every interactive data file required to be submitted and posted pursuant to Rule 405 of Regulation S-T (Section 232.405) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). YES NO

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

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

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

As of November 13, 2009, 15,608,438 shares of the Class A common stock, par value \$.01 per share, and 2,733,500 shares of Class B common stock, par value \$.01, of the Registrant were outstanding.

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EXPLANATORY NOTE

Comstock Homebuilding Companies, Inc. (the Company) is filing this Amendment No. 1 on Form 10-Q/A to our Quarterly Report of Form 10-Q for the three months ended September 30, 2009, filed with the Securities and Exchange Commission on November 13, 2009, solely for the purpose of correcting the date of the quarter being certified in the Exhibit 32.1 certification required under Section 906 of the Sarbanes-Oxley Act of 2002.

Except as specifically indicated herein, no other information included in the Quarterly Report of Form 10-Q is amended by this Amendment No. 1 of Form 10-Q/A.

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COMSTOCK HOMEBUILDING COMPANIES, INC. AND SUBSIDIARIES

FORM 10-Q

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(Amounts in thousands, except per share data)

	September 30, 2009	December 31, 2008
ASSETS		
Cash and cash equivalents	\$ 872	\$ 5,977
Restricted cash	3,432	3,859
Receivables	15	
Real estate held for development and sale	87,783	129,542
Inventory not owned - variable interest entities		19,250
Property, plant and equipment, net	279	829
Other assets	2,145	1,402
TOTAL ASSETS	\$ 94,526	\$ 160,859
LIABILITIES AND SHAREHOLDERS EQUITY		
Accounts payable and accrued liabilities	\$ 8,533	\$ 8,232
Obligations related to inventory not owned		19,050
Notes payable - secured by real estate	66,181	90,086
Notes payable - unsecured	17,236	12,743
TOTAL LIABILITIES	91,950	130,111
Commitments and contingencies (Note 9)		
SHAREHOLDERS EQUITY		
Class A common stock, \$0.01 par value, 77,266,500 shares authorized, 15,608,438 and 15,608,438 issued and outstanding, respectively	156	156
Class B common stock, \$0.01 par value, 2,733,500 shares authorized, 2,733,500 issued and outstanding	27	27
Additional paid-in capital	157,216	157,058
Treasury stock, at cost (391,400 Class A common stock)	(2,439)	(2,439)
Accumulated deficit	(152,384)	(124,277)
TOTAL COMSTOCK HOMEBUILDING COMPANIES, INC SHAREHOLDERS EQUITY	2,576	30,525
Noncontrolling interest		223
TOTAL EQUITY	2,576	30,749
TOTAL LIABILITIES AND SHAREHOLDERS EQUITY	\$ 94,526	\$ 160,859

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

Table of Contents**COMSTOCK HOMEBUILDING COMPANIES, INC. AND SUBSIDIARIES****UNAUDITED CONSOLIDATED STATEMENTS OF OPERATIONS**

(Amounts in thousands, except per share data)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2009	2008	2009	2008
Revenues				
Revenue - homebuilding	\$ 11,224	\$ 12,270	\$ 18,086	\$ 39,645
Revenue - other	1,400	803	3,025	1,807
Total revenue	12,624	13,073	21,111	41,452
Expenses				
Cost of sales - homebuilding	10,484	10,968	16,565	35,168
Cost of sales - other	1,216	356	2,166	1,069
Impairments and write-offs		2	22,938	14,580
Selling, general and administrative	1,128	4,211	5,480	11,684
Interest, real estate taxes and indirect costs related to inactive projects	454	2,199	3,808	3,615
Operating loss	(658)	(4,663)	(29,846)	(24,664)
Gain on troubled debt restructuring	(2,803)	(1,194)	(2,803)	(9,519)
Other (income) loss, net	(134)	(1,268)	1,063	(2,866)
Total pre tax loss	2,279	(2,201)	(28,106)	(12,279)
Income taxes expense		5	2	5
Net income (loss)	2,279	(2,206)	(28,108)	\$ (12,284)
Net income (loss) attributable to noncontrolling interest		(4)		(7)
Net income (loss) attributable to Comstock Homebuilding Companies, Inc	2,279	(2,202)	(28,108)	(12,277)
Basic income (loss) per share	\$ 0.13	\$ (0.13)	\$ (1.60)	\$ (0.70)
Basic weighted average shares outstanding	17,618	17,475	17,575	17,431
Diluted income (loss) per share	\$ 0.12	\$ (0.13)	\$ (1.60)	\$ (0.70)
Diluted weighted average shares outstanding	19,467	17,475	17,575	17,431

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

Table of Contents**COMSTOCK HOMEBUILDING COMPANIES, INC. AND SUBSIDIARIES****UNAUDITED CONSOLIDATED STATEMENTS OF CASH FLOWS**

(Amounts in thousands, except per share data)

	Nine Months Ended September 30,	
	2009	2008
Cash flows from operating activities:		
Net loss	\$ (28,108)	\$ (12,277)
Adjustment to reconcile net loss to net cash provided by operating activities		
Amortization and depreciation	549	530
Impairments and write-offs	22,938	14,580
Loss on disposal of assets		9
Non-controlling interest		(7)
Gain on troubled debt restructuring	(2,803)	(9,519)
Gain on trade payable settlements	(333)	
Board of directors compensation		148
Amortization of stock compensation	158	112
Changes in operating assets and liabilities:		
Restricted cash	427	1,149
Receivables	(15)	160
Real estate held for development and sale	15,372	11,307
Other assets	(743)	19,435
Accrued interest		
Accounts payable and accrued liabilities	2,097	(12,414)
Net cash provided by operating activities	9,549	13,213
Cash flows from investing activities:		
Purchase of property, plant and equipment		
Net cash used in investing activities		
Cash flows from financing activities:		
Proceeds from notes payable	311	24,337
Payments on notes payable	(14,732)	(38,077)
Non-controlling interest	(223)	
Proceeds from shares issued under employee stock purchase plan		9
Net cash used in financing activities	(14,644)	(13,731)
Net decrease in cash and cash equivalents	(5,105)	(518)
Cash and cash equivalents, beginning of period	5,977	6,822
Cash and cash equivalents, end of period	\$ 872	\$ 6,304
Supplemental disclosure for non-cash activity:		
Interest incurred but not paid in cash	\$ 1,513	\$ 290
Warrants issued in connection with troubled debt restructuring	\$	\$ 720
Reduction in real estate held for development and sale in connection with troubled debt restructuring	\$ 3,449	\$ 31,244
Reduction in notes payable in connection with troubled debt restructuring	\$ 6,502	\$ 31,365
Reduction in accrued liabilities in connection with troubled debt restructuring	\$	\$ 1,004

Reduction in inventory and related debt - variable interest entity

\$ 19,050