

NICOLAIS MICHAEL R
 Form 4
 August 10, 2009

FORM 4

**UNITED STATES SECURITIES AND EXCHANGE COMMISSION
 Washington, D.C. 20549**

OMB APPROVAL

OMB Number: 3235-0287
 Expires: January 31, 2005
 Estimated average burden hours per response... 0.5

Check this box if no longer subject to Section 16. Form 4 or Form 5 obligations may continue. See Instruction 1(b).

STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF SECURITIES

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934, Section 17(a) of the Public Utility Holding Company Act of 1935 or Section 30(h) of the Investment Company Act of 1940

(Print or Type Responses)

1. Name and Address of Reporting Person *
 NICOLAIS MICHAEL R

(Last) (First) (Middle)

3811 TURTLE CREEK BLVD.,
 SUITE 250

(Street)

DALLAS, TX 75219

(City) (State) (Zip)

2. Issuer Name and Ticker or Trading Symbol
 EAGLE MATERIALS INC [EXP]

3. Date of Earliest Transaction
 (Month/Day/Year)
 08/06/2009

4. If Amendment, Date Original Filed(Month/Day/Year)

5. Relationship of Reporting Person(s) to Issuer

(Check all applicable)

Director 10% Owner
 Officer (give title below) Other (specify below)

6. Individual or Joint/Group Filing(Check Applicable Line)
 Form filed by One Reporting Person
 Form filed by More than One Reporting Person

Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned

1. Title of Security (Instr. 3)	2. Transaction Date (Month/Day/Year)	2A. Deemed Execution Date, if any (Month/Day/Year)	3. Transaction Code (Instr. 8)	4. Securities Acquired (A) or Disposed of (D) (Instr. 3, 4 and 5)	5. Amount of Securities Beneficially Owned Following Reported Transaction(s) (Instr. 3 and 4)	6. Ownership Form: Direct (D) or Indirect (I) (Instr. 4)	7. Nature of Beneficial Ownership (Instr. 4)
				(A) or (D)	Code V Amount (D) Price		

Reminder: Report on a separate line for each class of securities beneficially owned directly or indirectly.

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SEC 1474 (9-02)

Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned (e.g., puts, calls, warrants, options, convertible securities)

1. Title of Derivative Security	2. Conversion or Exercise	3. Transaction Date (Month/Day/Year)	3A. Deemed Execution Date, if any	4. Transaction Code	5. Number of Derivative Securities	6. Date Exercisable and Expiration Date (Month/Day/Year)	7. Title and Amount of Underlying Security (Instr. 3 and 4)
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(Instr. 3)	Price of Derivative Security	(Month/Day/Year)	(Instr. 8)	Acquired (A) or Disposed of (D) (Instr. 3, 4, and 5)	Code	V	(A)	(D)	Date Exercisable	Expiration Date	Title	Amount or Number of Shares
Non-qualified Stock Option (Right to Buy)	\$ 27.72	08/06/2009	A	8,149					08/06/2009	08/06/2016	Common Stock	8,149

Reporting Owners

Reporting Owner Name / Address	Relationships			
	Director	10% Owner	Officer	Other
NICOLAIS MICHAEL R 3811 TURTLE CREEK BLVD., SUITE 250 DALLAS, TX 75219		X		

Signatures

/s/ Scott M. Wilson as Attorney-in-Fact for Michael R. Nicolais
 **Signature of Reporting Person
 08/10/2009
 Date

Explanation of Responses:

* If the form is filed by more than one reporting person, see Instruction 4(b)(v).
 ** Intentional misstatements or omissions of facts constitute Federal Criminal Violations. See 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).
 Note: File three copies of this Form, one of which must be manually signed. If space is insufficient, see Instruction 6 for procedure.
 Potential persons who are to respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB number. p align="center"

ASSETS

	Pro-forma	Pro-forma	Historical	Historical	Total	Adjustments	Adjustments	Combined
Cash	\$1,894,814	\$1,769,171	\$3,663,985	\$10,904,000	1			
	(9,149,762)	2	\$5,418,223					
Accounts receivable, net	3,375,073	1,522,971	4,898,044	4,898,044				
Interest receivable	10,875	10,875	10,875					
Inventory	7,106,299	467,235	7,573,534	7,573,534				
Prepaid and other current assets								

809,022	626,211	1,435,233		1,435,233
Deferred tax asset				
969,000	969,000	969,000		
Investments				
25,850,238	25,850,238	(25,850,238)	2	
Property and equipment, net				
660,205	1,573,704	2,233,909		2,233,909
Software costs, net				
4,037,384	4,037,384	4,037,384		
Customer list				
	10,500,000	3	10,500,000	
Notes receivable				
70,604	70,604	70,604		
Investment in subsidiary				
	53,100,000	2		
	(53,100,000)	3		
Other assets				
(35,183)	63,582	28,399	96,000	1 124,399
Goodwill				
852,683	852,683	40,185,714	3	41,038,397
Total Assets				
\$45,601,014	\$6,022,874	\$51,623,888	\$26,685,714	\$78,309,602

LIABILITIES AND STOCKHOLDERS EQUITY

Accounts payable				
\$1,131,976	\$839,942	\$1,971,918	\$3,100,000	1 \$5,071,918
Accrued expenses and other liabilities				
845,189	807,848	1,653,037		1,653,037
Income tax payable				
186,950	186,950	261,400	4	448,350
Deferred tax liability				
1,368,282	1,368,282	1,368,282		
Unearned revenues				
100,689	100,689	100,689		
Customer deposits				
1,481,435	1,481,435	1,481,435		
Bank line of credit				
47,000	47,000	47,000		
Due to shareholder				
22,800	22,800	22,800		
Loan from parent				

Notes payable and capital leases

23,028 479,363 502,391 11,000,000 **1** 11,502,391

5,000,000 **2** 5,000,000

Total Liabilities

3,725,914 3,608,588 7,334,502 19,361,400 26,695,902

Common stock

901,487 500 901,987 102,881 **2**

(500) **3** 1,004,368

Additional paid-in capital

27,612,264 23,227 27,635,491 9,897,119 **2**

(23,227) **3** 37,509,383

Retained earnings (deficit)

13,320,818 2,390,559 15,711,377 (2,390,559) **3**

(261,400) **4** 13,059,418

Translation adjustment

40,531 40,531 40,531

Total Stockholders Equity

41,875,100 2,414,286 44,289,386 7,324,314 51,613,700

Total Liabilities and Stockholders Equity

\$45,601,014 \$6,022,874 \$51,623,888 \$26,685,714 \$78,309,602

**SUNAIR ELECTRONICS, INC. AND SUBSIDIARIES
CONSOLIDATING STATEMENT OF OPERATIONS
FOR THE SIX MONTHS ENDED MARCH 31, 2005**

	Sunair Electronics, Inc. Historical	Middleton Historical	Pro-forma Adjustments	See Note 3 Pro-forma Adjustments	Pro-forma Combined
Revenues	\$ 9,940,320	\$ 15,669,377	\$		\$ 25,609,697
Cost of revenues	5,537,526	10,764,908			16,302,434
Gross profit	4,402,794	4,904,469			9,307,263
Selling, general and administrative expenses	3,419,467	4,262,344			7,681,811
Income from operations	983,327	642,125			1,625,452
Other income:	99,980	28,089			128,069
Income before provision for income taxes	1,083,307	670,214			1,753,521
Provision for income taxes	(347,800)		(261,400)	4	(609,200)
NET INCOME	\$ 735,507	\$ 670,214	\$		\$ 1,144,321
Pro-forma net income per common share					
Basic	\$ 0.14				\$ 0.18
Diluted	\$ 0.11				\$ 0.15
Weighted average of pro-forma shares outstanding:					
Basic	5,412,524				6,441,331
Diluted	6,667,402				7,696,209

**SUNAIR ELECTRONICS, INC. AND SUBSIDIARIES
CONSOLIDATING STATEMENT OF OPERATIONS
FOR THE YEAR ENDED SEPTEMBER 30, 2004**

	Sunair Electronics, Inc. Historical	Middleton Historical	Pro-forma Adjustments	See Note 3 Pro-forma Adjustments	Pro-forma Combined
Revenues	\$ 9,885,375	\$ 28,948,849	\$		\$ 38,834,224
Cost of revenues	5,685,222	18,874,447			24,559,669
Gross profit	4,200,153	10,074,402			14,274,555
Selling, general and administrative expenses	2,747,579	7,755,583			10,503,162
Income from operations	1,452,574	2,318,819			3,771,393
Other income:	178,001	1,768			179,769
Income before provision for income taxes	1,630,575	2,320,587			3,951,162
Provision for income taxes	(500,855)		(905,000)	4	(1,405,855)
NET INCOME	\$ 1,129,720	\$ 2,320,587	\$		\$ 2,545,307
Pro-forma net income per common share Basic	\$ 0.30				\$ 0.52
Diluted	\$ 0.29				\$ 0.51
Weighted average of pro-forma shares outstanding:					
Basic	3,830,487				4,859,293
Diluted	3,919,127				4,947,933

SUNAIR ELECTRONICS, INC AND SUBSIDIARIES
NOTES TO UNAUDITED PRO FORMA CONDENSED COMBINED
FINANCIAL STATEMENTS

NOTE 1 BASIS OF PRESENTATION

The accompanying unaudited pro forma condensed combined financial statements have been prepared pursuant to the rules and regulations of the Securities and Exchange Commission. Certain information and certain footnote disclosures normally included in financial statements prepared in accordance with accounting principles generally accepted in the United States of America have been condensed or omitted pursuant to such rules and regulations; however, management believes that the disclosures are adequate to make the information presented not misleading.

NOTE 2 STOCK PURCHASE AGREEMENT

On June 7, 2005, Sunair paid \$35,000,000 in cash, gave a promissory note of \$5,000,000 and issued an aggregate number of 1,028,807 shares of its \$0.10 par value common stock (totaling \$10,000,000) in exchange for all of the issued and outstanding shares of Middleton Pest Control, Inc. Sunair also estimated closing costs of approximately \$1,700,000 and a charge of approximately \$1,400,000 for Middleton's built-in capital gains tax for a total purchase price of approximately \$53,100,000.

The following table set forth the preliminary allocation of the purchase price to Middleton's tangible and intangible assets acquired and liabilities assumed as of March 31, 2005

Cash	\$ 1,769,171
A/R	1,522,971
Inventory	467,235
Prepaid assests	626,211
Fixed assets	1,573,704
Other assets	63,582
Customer list	10,500,000
Goodwill	40,185,714
Accounts payable	(839,942)
Accrued liabilities	(807,848)
Customer deposits	(1,481,435)
Notes payable vehicles	(26,337)
Notes payable	(453,026)
Total	 \$ 53,100,000

NOTE 3 PRO FORMA ADJUSTMENTS

1. To reflect a Bank Line of Credit acquired by Sunair of \$11,000,000 less \$96,000 in closing costs to complete the acquisition of Middleton.
2. Reflects common stock of Sunair issued at \$.10 par value and additional paid-in capital as a result of the issuance, the promissory note given and the cash disbursed in connection with the acquisition of Middleton. Also included in the investment and recorded to accounts payable are acquisition costs of \$1,700,000 and the estimated tax effect of built-in capital gains of 1,400,000 as a result of Middleton relinquishing its status as an S-Corporation.

3. To reflect consolidation of the common stock, additional paid-in capital and retained earnings of Middleton and to reflect adjustment from book value to market value. The excess of purchase price over the book value was allocated first to customer lists at the appraised value on the date of purchase. The remainder was allocated to goodwill.
4. Middleton Pest Control, Inc. had elected in 1998 to be taxed as a Small Business Corporation under Subchapter S of the Internal Revenue Code. All taxable income was apportioned to the shareholders for inclusion in their individual income tax returns. The Company is reflecting the effect of Federal and State income taxes at a blended rate of 39%, as if Middleton was combined with Sunair as a C corporation.