

BROWN & BROWN INC
Form 10-Q
May 11, 2009
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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

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

For the quarterly period ended March 31, 2009

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 001-13619

BROWN & BROWN, INC.

(Exact name of Registrant as specified in its charter)

Florida
(State or other jurisdiction of
incorporation or organization)

59-0864469
(I.R.S. Employer
Identification Number)

220 South Ridgewood Avenue,

Daytona Beach, FL
(Address of principal executive offices)

32114
(Zip Code)

Registrant's telephone number, including area code: (386) 252-9601

Registrant's Website: www.bbinsurance.com

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, 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 Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes 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 (Do not check if a smaller reporting company)

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

The number of shares of the Registrant's common stock, \$.10 par value, outstanding as of May 5, 2009 was 141,538,422.

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Disclosure Regarding Forward-Looking Statements

Brown & Brown, Inc., together with its subsidiaries (collectively, we, Brown & Brown or the Company), makes forward-looking statements within the safe harbor provision of the Private Securities Litigation Reform Act of 1995, as amended, throughout this report and in the documents we incorporate by reference into this report. You can identify these statements by forward-looking words such as may, will, should, expect, anticipate, believe, intend, estimate, plan and continue or similar words. We have based these statements on our current expectations about future events. Although we believe the expectations expressed in the forward-looking statements included in this Form 10-Q and those reports, statements, information and announcements are based on reasonable assumptions within the bounds of our knowledge of our business, a number of factors could cause actual results to differ materially from those expressed in any forward-looking statements, whether oral or written, made by us or on our behalf. Many of these factors have previously been identified in filings or statements made by us or on our behalf. Important factors which could cause our actual results to differ materially from the forward-looking statements in this report include the following items, in additions to those matters described in Part I, Item 2 Management's Discussion and Analysis of Financial Condition and Results of Operations and Part II, Item 1A Risk Factors:

Material adverse changes in economic conditions in the markets we serve and in the general economy;

Future regulatory actions and conditions in the states in which we conduct our business;

Competition from others in the insurance agency, wholesale brokerage, insurance programs and service business;

A significant portion of business written by Brown & Brown is for customers located in California, Florida, Indiana, Michigan, New Jersey, New York, Pennsylvania, Texas and Washington. Accordingly, the occurrence of adverse economic conditions, an adverse regulatory climate, or a disaster in any of these states could have a material adverse effect on our business;

The integration of our operations with those of businesses or assets we have acquired or may acquire in the future and the failure to realize the expected benefits of such integration; and

Other risks and uncertainties as may be detailed from time to time in our public announcements and Securities and Exchange Commission (SEC) filings.

Forward-looking statements that we make or that are made by others on our behalf are based on a knowledge of our business and the environment in which we operate, but because of the factors listed above, among others, actual results may differ from those in the forward-looking statements. Consequently, these cautionary statements qualify all of the forward-looking statements we make herein. We cannot assure you that the results or developments anticipated by us will be realized or, even if substantially realized, that those results or developments will result in the expected consequences for us or affect us, our business or our operations in the way we expect. We caution readers not to place undue reliance on these forward-looking statements, which speak only as of their dates. We assume no obligation to update any of the forward-looking statements.

Table of Contents**PART I FINANCIAL INFORMATION****ITEM 1 FINANCIAL STATEMENTS (UNAUDITED)****BROWN & BROWN, INC.****CONDENSED CONSOLIDATED STATEMENTS OF INCOME****(UNAUDITED)**

| <i>(in thousands, except per share data)</i> | For the three months ended March 31, | |
|--|---|----------------|
| | 2009 | 2008 |
| REVENUES | | |
| Commissions and fees | \$ 263,964 | \$ 253,528 |
| Investment income | 310 | 1,999 |
| Other (loss) income, net | (694) | 1,188 |
| Total revenues | 263,580 | 256,715 |
| EXPENSES | | |
| Employee compensation and benefits | 127,341 | 121,187 |
| Non-cash stock-based compensation | 1,816 | 1,944 |
| Other operating expenses | 35,864 | 31,204 |
| Amortization | 12,385 | 11,116 |
| Depreciation | 3,333 | 3,246 |
| Interest | 3,634 | 3,434 |
| Total expenses | 184,373 | 172,131 |
| Income before income taxes | 79,207 | 84,584 |
| Income taxes | 31,195 | 32,824 |
| Net income | \$ 48,012 | \$ 51,760 |
| Net income per share: | | |
| Basic | \$ 0.34 | \$ 0.37 |
| Diluted | \$ 0.34 | \$ 0.37 |
| Weighted average number of shares outstanding: | | |
| Basic | 141,558 | 140,704 |
| Diluted | 141,843 | 141,327 |
| Dividends declared per share | \$ 0.075 | \$ 0.07 |

See accompanying notes to condensed consolidated financial statements.

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BROWN & BROWN, INC.
CONDENSED CONSOLIDATED
BALANCE SHEETS
(UNAUDITED)

| <i>(in thousands, except per share data)</i> | March 31, 2009 | December 31, 2008 |
|---|---------------------|----------------------|
| ASSETS | | |
| Current Assets: | | |
| Cash and cash equivalents | \$ 126,439 | \$ 78,557 |
| Restricted cash and investments | 140,840 | 144,750 |
| Short-term investments | 7,471 | 7,511 |
| Premiums, commissions and fees receivable | 230,838 | 244,515 |
| Deferred income taxes | | 14,171 |
| Other current assets | 26,821 | 33,528 |
| Total current assets | 532,409 | 523,032 |
| Fixed assets, net | 63,354 | 63,520 |
| Goodwill | 1,044,417 | 1,023,372 |
| Amortizable intangible assets, net | 493,444 | 495,627 |
| Other assets | 13,692 | 14,029 |
| Total assets | \$ 2,147,316 | \$ 2,119,580 |
| LIABILITIES AND SHAREHOLDERS EQUITY | | |
| Current Liabilities: | | |
| Premiums payable to insurance companies | \$ 367,438 | \$ 357,707 |
| Premium deposits and credits due customers | 45,008 | 43,577 |
| Accounts payable | 31,802 | 18,872 |
| Accrued expenses | 55,797 | 96,325 |
| Current portion of long-term debt | 6,526 | 6,162 |
| Total current liabilities | 506,571 | 522,643 |
| Long-term debt | 251,427 | 253,616 |
| Deferred income taxes, net | 93,289 | 90,143 |
| Other liabilities | 14,596 | 11,437 |
| Shareholders' Equity: | | |
| Common stock, par value \$0.10 per share; authorized 280,000 shares; issued and outstanding 141,549 at 2009 and 141,544 at 2008 | 14,155 | 14,154 |
| Additional paid-in capital | 252,478 | 250,167 |
| Retained earnings | 1,014,801 | 977,407 |
| Accumulated other comprehensive income, net of related income tax effect of \$0 at 2009 and \$8 at 2008 | (1) | 13 |
| Total shareholders' equity | 1,281,433 | 1,241,741 |
| Total liabilities and shareholders' equity | \$ 2,147,316 | \$ 2,119,580 |

See accompanying notes to condensed consolidated financial statements.

Table of Contents**BROWN & BROWN, INC.****CONDENSED CONSOLIDATED STATEMENTS OF****CASH FLOWS****(UNAUDITED)**

| <i>(in thousands)</i> | For the three months ended March 31, | |
|--|---|------------------|
| | 2009 | 2008 |
| Cash flows from operating activities: | | |
| Net income | \$ 48,012 | \$ 51,760 |
| Adjustments to reconcile net income to net cash provided by operating activities: | | |
| Amortization | 12,385 | 11,116 |
| Depreciation | 3,333 | 3,246 |
| Non-cash stock-based compensation | 1,816 | 1,944 |
| Deferred income taxes | 17,325 | 20,519 |
| Net loss on sales of investments, fixed assets and customer accounts | 1,007 | 60 |
| Changes in operating assets and liabilities, net of effect from acquisitions and divestitures: | | |
| Restricted cash and investments decrease | 3,910 | 15,054 |
| Premiums, commissions and fees receivable decrease | 15,504 | 11,181 |
| Other assets decrease (increase) | 6,029 | (20,518) |
| Premiums payable to insurance companies increase (decrease) | 9,603 | (17,383) |
| Premium deposits and credits due customers increase (decrease) | 1,431 | (5,256) |
| Accounts payable increase | 12,825 | 11,709 |
| Accrued expenses (decrease) | (41,022) | (38,638) |
| Other liabilities increase | 1,002 | 665 |
| Net cash provided by operating activities | 93,160 | 45,459 |
| Cash flows from investing activities: | | |
| Additions to fixed assets | (3,158) | (4,061) |
| Payments for businesses acquired, net of cash acquired | (27,970) | (72,551) |
| Proceeds from sales of fixed assets and customer accounts | 32 | 2,135 |
| Purchases of investments | (544) | (1,788) |
| Proceeds from sales of investments | 562 | 50 |
| Net cash used in investing activities | (31,078) | (76,215) |
| Cash flows from financing activities: | | |
| Proceeds from long-term debt | | 25,000 |
| Payments on long-term debt | (4,078) | (6,156) |
| Issuances of common stock for employee stock benefit plans | 496 | 515 |
| Cash dividends paid | (10,618) | (9,847) |
| Net cash (used in) provided by financing activities | (14,200) | 9,512 |
| Net increase (decrease) in cash and cash equivalents | 47,882 | (21,244) |
| Cash and cash equivalents at beginning of period | 78,557 | 38,234 |
| Cash and cash equivalents at end of period | \$ 126,439 | \$ 16,990 |

See accompanying notes to condensed consolidated financial statements.

Table of Contents**BROWN & BROWN, INC.****NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS****(UNAUDITED)****NOTE 1 · Nature of Operations**

Brown & Brown, Inc., a Florida corporation, and its subsidiaries is a diversified insurance agency, wholesale brokerage, insurance programs and services organization that markets and sells to its customers insurance products and services, primarily in the property and casualty area. Brown & Brown's business is divided into four reportable segments: the Retail Division, which provides a broad range of insurance products and services to commercial, public and quasi-public entities, professional and individual customers; the Wholesale Brokerage Division, which markets and sells excess and surplus commercial insurance and reinsurance, primarily through independent agents and brokers; the National Programs Division, which is composed of two units – Professional Programs, which provides professional liability and related package products for certain professionals delivered through nationwide networks of independent agents, and Special Programs, which markets targeted products and services designated for specific industries, trade groups, public and quasi-public entities and market niches; and the Services Division, which provides insurance-related services, including third-party claims administration and comprehensive medical utilization management services in both the workers' compensation and all-lines liability arenas, as well as Medicare set-aside services.

NOTE 2 · Basis of Financial Reporting

The accompanying unaudited, condensed, consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America (GAAP) for interim financial information and with the instructions for Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by GAAP for complete financial statements. In the opinion of management, all adjustments (consisting of normal recurring accruals) considered necessary for a fair presentation have been included. These unaudited, condensed, consolidated financial statements should be read in conjunction with the audited consolidated financial statements and the notes thereto set forth in the Company's Annual Report on Form 10-K for the year ended December 31, 2008.

Results of operations for the three months ended March 31, 2009 are not necessarily indicative of the results that may be expected for the year ending December 31, 2009.

NOTE 3 · Net Income Per Share

Basic net income per share is computed by dividing net income available to shareholders by the weighted average number of shares outstanding for the period. Basic net income per share excludes dilution. Diluted net income per share reflects the potential dilution that could occur if stock options or other contracts to issue common stock were exercised or converted to common stock.

The following table sets forth the computation of basic net income per share and diluted net income per share:

| <i>(in thousands, except per share data)</i> | For the three months ended March 31, | |
|--|---|-------------|
| | 2009 | 2008 |
| Net income | \$ 48,012 | \$ 51,760 |
| Weighted average number of common shares outstanding | 141,558 | 140,704 |
| Dilutive effect of stock options using the treasury stock method | 285 | 623 |
| Weighted average number of shares outstanding | 141,843 | 141,327 |
| Net income per share: | | |

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| | | | | |
|---------|----|------|----|------|
| Basic | \$ | 0.34 | \$ | 0.37 |
| Diluted | \$ | 0.34 | \$ | 0.37 |

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NOTE 4 · New Accounting Pronouncements

Business Combinations In December 2007, the FASB issued SFAS No. 141(R), Business Combinations (SFAS 141R). SFAS 141R requires an acquirer to recognize 100% of the fair values of acquired assets, including goodwill, and assumed liabilities, (with only limited exceptions) upon initially obtaining control of an acquired entity even if the acquirer has not acquired 100% of its target. Additionally, the fair value of contingent consideration arrangements (such as earn-out purchase arrangements) at the acquisition date must be included in the purchase price consideration. Transaction costs are expensed as incurred. SFAS 141R also modifies the recognition of pre-acquisition contingencies, such as environmental or legal issues, restructuring plans and acquired research and development value in purchase accounting. SFAS 141R amends SFAS No. 109, Accounting for Income Taxes, to require the acquirer to recognize changes in the amount of its deferred tax benefits that are recognizable because of a business combination, either in income from continuing operations in the period of the combination or directly in contributed capital, depending on the circumstances. SFAS 141R is effective for fiscal years beginning after December 15, 2008. Effective January 1, 2009, the Company adopted SFAS 141R on a prospective basis. As a result, the recorded purchase price for all acquisitions consummated after January 1, 2009 will include an estimation of the fair value of liabilities associated with any potential earnout provisions. Subsequent changes in these earnout obligations will be recorded in the consolidated statement of income when incurred. Potential earnout obligations are typically based upon future earnings of the acquired entities, usually between one to three years.

In April 2008, the FASB issued FSP No. FAS 142-3, Determination of the Useful Life of Intangible Assets (FSP 142-3). FSP 142-3 amends the factors that should be considered in developing renewal or extension assumptions used to determine the useful life of a recognized intangible asset under SFAS 142. This pronouncement requires enhanced disclosures concerning a company's treatment of costs incurred to renew or extend the term of a recognized intangible asset. FSP 142-3 is effective for financial statements issued for fiscal years beginning after December 15, 2008. The adoption of FSP 142-3, did not have any material impact on our consolidated financial statements.

In November 2008, the FASB ratified EITF Issue No. 08-7, Accounting for Defensive Intangible Assets (EITF 08-7). EITF 08-7 applies to defensive intangible assets, which are acquired intangible assets that the acquirer does not intend to actively use but intends to hold to prevent its competitors from obtaining access to them. As these assets are separately identifiable, EITF 08-7 requires an acquiring entity to account for defensive intangible assets as a separate unit of accounting which should be amortized to expense over the period the asset diminished in value. Defensive intangible assets must be recognized at fair value in accordance with SFAS 141R and SFAS 157. EITF 08-7 is effective for financial statements issued for fiscal years beginning after December 15, 2008. The adoption of EITF 08-7 did not have any material impact on our consolidated financial statements.

International Accounting Standards International Financial Reporting Standards (IFRS) are a set of standards and interpretations adopted by the International Accounting Standards board. The SEC is currently considering a potential IFRS adoption process in the U.S., which could, in the near term, provide domestic issuers with an alternative accounting method and ultimately could replace U.S. GAAP reporting requirements with IFRS reporting requirements. We are currently investigating the implications should we be required to adopt IFRS in the future.

Table of Contents**NOTE 5 · Business Combinations****Acquisitions in 2009**

For the three months ended March 31, 2009, Brown & Brown acquired the assets and assumed certain liabilities of two insurance intermediaries and a book of business (customer accounts). The aggregate purchase price of these acquisitions was \$29,256,000 including \$26,343,000 of net cash payments, the assumption of \$726,000 of liabilities and \$2,187,000 of recorded earn-out payables. All of these acquisitions were acquired primarily to expand Brown & Brown's core businesses and to attract and hire high-quality individuals. Acquisition purchase prices are typically based on a multiple of average annual operating profit earned over a one- to three-year period within a minimum and maximum price range. The recorded purchase price for all acquisitions consummated after January 1, 2009 will include an estimation of the fair value of liabilities associated with any potential earn-out provisions. Subsequent changes in the fair value of earn-out obligations will be recorded in the consolidated statement of income when incurred.

The fair value of earn-out obligations is based on the present value of the expected future payments to be made to the sellers of the acquired businesses in accordance with the provisions outlined in the respective purchase agreements. In determining fair value, the acquired business's future performance is estimated using financial projections developed by management for the acquired business and reflects market participant assumptions regarding revenue growth and/or profitability. The expected future payments are estimated on the basis of the earn-out formula and performance targets specified in each purchase agreement compared to the associated financial projections. These payments are then discounted to present value using a risk-adjusted rate that takes into consideration the likelihood that the forecasted earn-out payments will be made.

All of these acquisitions have been accounted for as business combinations and are as follows:

| <i>(in thousands)</i> | | 2009 | Net | | Recorded | Recorded | Maximum |
|-------------------------------|------------------|---------------------|------------------|--------------|------------------|------------------|----------------------------|
| Name | Business Segment | Date of Acquisition | Cash Paid | Note Payable | Earn-out Payable | Purchase Price | Potential Earn-out Payable |
| Conner Strong Companies, Inc. | Retail | January 2 | \$ 23,621 | \$ | \$ | \$ 23,621 | \$ |
| Other | Various | Various | 2,722 | | 2,187 | 4,909 | 2,187 |
| Total | | | \$ 26,343 | \$ | \$ 2,187 | \$ 28,530 | \$ 2,187 |

The following table summarizes the estimated fair values of the aggregate assets and liabilities acquired as of the date of each acquisition:

| <i>(in thousands)</i> | Conner Strong | Other | Total |
|----------------------------------|------------------|-----------------|------------------|
| Fiduciary cash | \$ | \$ | \$ |
| Other current assets | 556 | 1,271 | 1,827 |
| Fixed assets | 52 | 10 | 62 |
| Goodwill | 15,192 | 2,002 | 17,194 |
| Purchased customer accounts | 7,970 | 2,194 | 10,164 |
| Noncompete agreements | | 11 | 11 |
| Other assets | | (2) | (2) |
| Total assets acquired | 23,770 | 5,486 | 29,256 |
| Other current liabilities | (149) | (577) | (726) |
| Total liabilities assumed | (149) | (577) | (726) |
| Net assets acquired | \$ 23,621 | \$ 4,909 | \$ 28,530 |

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The weighted average useful lives for the above acquired amortizable intangible assets are as follows: purchased customer accounts, 14.9 years; and noncompete agreements, 5.0 years.

Goodwill of \$17,194,000 all of which is expected to be deductible for income tax purposes, was assigned to the Retail, Wholesale Brokerage, National Programs and Services Divisions in the amounts of \$17,101,000, \$93,000, \$0 and \$0, respectively.

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The results of operations for the acquisitions completed during 2009 have been combined with those of the Company since their respective acquisition dates. If the acquisitions had occurred as of the beginning of each period, the Company's results of operations would be as shown in the following table. These unaudited pro forma results are not necessarily indicative of the actual results of operations that would have occurred had the acquisitions actually been made at the beginning of the respective periods.

| (UNAUDITED) (in thousands, except per share data) | For the three months ended March 31, | |
|--|---|------------|
| | 2009 | 2008 |
| Total revenues | \$ 263,814 | \$ 259,632 |
| Income before income taxes | 79,294 | 85,560 |
| Net income | 48,065 | 52,357 |
| Net income per share: | | |
| Basic | \$ 0.34 | \$ 0.37 |
| Diluted | \$ 0.34 | \$ 0.37 |
| Weighted average number of shares outstanding: | | |
| Basic | 141,558 | 140,704 |
| Diluted | 141,843 | 141,327 |

Acquisitions in 2008

For the three months ended March 31, 2008, Brown & Brown acquired the assets and assumed certain liabilities of eight insurance intermediaries, the stock of one insurance intermediary and several book of business (customer accounts). The aggregate purchase price of these acquisitions was \$79,367,000, including \$71,475,000 of net cash payments, the issuance of \$1,987,000 in notes payable and the assumption of \$5,905,000 of liabilities. All of these acquisitions were acquired primarily to expand Brown & Brown's core businesses and to attract and hire high-quality individuals. Acquisition purchase prices are typically based on a multiple of average annual operating profit earned over a one- to three-year period within a minimum and maximum price range. For all acquisitions consummated prior to January 1, 2009, the initial asset allocation of an acquisition is based on the minimum purchase price, and any subsequent earn-out payment is allocated to goodwill. Acquisitions are initially recorded at preliminary fair values. Subsequently, the Company completes the final fair value allocations and any adjustments to assets or liabilities acquired are recorded in the current period.

All of these acquisitions have been accounted for as business combinations and are as follows:

| (in thousands) | Business Segment | 2008 Date of Acquisition | Net | | Recorded Purchase Price |
|---|------------------|-----------------------------|-----------|---------------|-------------------------|
| | | | Cash Paid | Notes Payable | |
| Smith Peabody & Stiles Insurance Agency | Retail | January 1 | \$ 13,285 | \$ | \$ 13,285 |
| LDP Consulting Group, Inc. | Retail | January 24 | 39,226 | | 39,226 |
| Other | Various | Various | 18,964 | 1,987 | 20,951 |
| Total | | | \$ 71,475 | \$ 1,987 | \$ 73,462 |

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The following table summarizes the estimated fair values of the aggregate assets and liabilities acquired as of the date of each acquisition:

| <i>(in thousands)</i> | Smith Peabody & Stiles | LDP | Other | Total |
|-----------------------------|---|------------|--------------|--------------|
| Fiduciary cash | \$ | \$ 166 | \$ | \$ 166 |
| Other current assets | | 1,121 | 853 | 1,974 |
| Fixed assets | 75 | 19 | 99 | 193 |
| Goodwill | 8,980 | 29,115 | 10,771 | 48,866 |
| Purchased customer accounts | 4,218 | 13,958 | 9,788 | 27,964 |
| Noncompete agreements | 12 | 55 | 126 | 193 |
| Other assets | | 11 | | 11 |
| | | | | |
| Total assets acquired | 13,285 | 44,445 | 21,637 | 79,367 |
| Other current liabilities | | (5,219) | (686) | (5,905) |
| | | | | |
| Total liabilities assumed | | (5,219) | (686) | (5,905) |
| | | | | |
| Net assets acquired | \$ 13,285 | \$ 39,226 | \$ 20,951 | \$ 73,462 |

The weighted average useful lives for the above acquired amortizable intangible assets are as follows: purchased customer accounts, 15.0 years; and noncompete agreements, 5.0 years.

Goodwill of \$48,866,000, all of which is expected to be deductible for income tax purposes, was assigned to the Retail, Wholesale Brokerage, National Programs and Services Divisions in the amounts of \$47,767,000, \$779,000, \$320,000 and \$0, respectively.

The results of operations for the acquisitions completed during 2008 have been combined with those of the Company since their respective acquisition dates. If the acquisitions had occurred as of the beginning of each period, the Company's results of operations would be as shown in the following table. These unaudited pro forma results are not necessarily indicative of the actual results of operations that would have occurred had the acquisitions actually been made at the beginning of the respective periods.

| (UNAUDITED) <i>(in thousands, except per share data)</i> | For the three months ended March 31, 2008 2007 | |
|--|--|------------|
| Total revenues | \$ 258,531 | \$ 266,392 |
| Income before income taxes | 85,285 | 101,023 |
| Net income | 52,189 | 61,505 |
| | | |
| Net income per share: | | |
| Basic | \$ 0.37 | \$ 0.44 |
| | | |
| Diluted | \$ 0.37 | \$ 0.44 |
| | | |
| Weighted average number of shares outstanding: | | |
| Basic | 140,704 | 140,221 |
| | | |
| Diluted | 141,327 | 141,194 |

For acquisitions consummated prior to January 1, 2009, additional consideration paid to sellers as a result of purchase price earn-out provisions are recorded as adjustments to intangible assets when the contingencies are settled. The net additional consideration paid by the Company in 2009 as a result of these adjustments totaled \$3,881,000, of which \$3,851,000 was allocated to goodwill and \$30,000 to noncompete agreements.

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Of the \$3,881,000 net additional consideration paid, \$1,627,000 was paid in cash and \$2,254,000 was issued in notes payable. The net additional consideration paid by the Company in 2008 as a result of these adjustments totaled \$1,298,000, all of which was allocated to goodwill. Of the \$1,298,000 net additional consideration paid, \$1,242,000 was paid in cash and \$56,000 was issued in notes payable. As of March 31, 2009, the maximum future contingency payments related to acquisitions totaled \$202,706,000.

Table of Contents**NOTE 6 · Goodwill**

Goodwill is subject to at least an annual assessment for impairment by applying a fair value-based test. Brown & Brown completed its most recent annual assessment as of November 30, 2008 and identified no impairment as a result of the evaluation.

The changes in goodwill for the three months ended March 31, 2009 are as follows:

| <i>(in thousands)</i> | Retail | Wholesale Brokerage | National Programs | Services | Total |
|--|------------|------------------------|----------------------|----------|--------------|
| Balance as of January 1, 2009 | \$ 620,588 | \$ 246,216 | \$ 147,298 | \$ 9,270 | \$ 1,023,372 |
| Goodwill of acquired businesses | 20,855 | 190 | | | 21,045 |
| Goodwill disposed of relating to sales of businesses | | | | | |
| Balance as of March 31, 2009 | \$ 641,443 | \$ 246,406 | \$ 147,298 | \$ 9,270 | \$ 1,044,417 |

NOTE 7 · Amortizable Intangible Assets

Amortizable intangible assets at March 31, 2009 and December 31, 2008 consisted of the following:

| <i>(in thousands)</i> | March 31, 2009 | | | | December 31, 2008 | | | |
|-----------------------------|----------------------------|-----------------------------|--------------------------|--|----------------------------|-----------------------------|--------------------------|--|
| | Gross Carrying Value | Accumulated Amortization | Net Carrying Value | Weighted Average Life (years) | Gross Carrying Value | Accumulated Amortization | Net Carrying Value | Weighted Average Life (years) |
| Purchased customer accounts | \$ 735,108 | \$ (243,835) | \$ 491,273 | 14.9 | \$ 724,953 | \$ (231,748) | \$ 493,205 | 14.9 |
| Noncompete agreements | 24,497 | (22,326) | 2,171 | 7.3 | 24,455 | (22,033) | 2,422 | 7.3 |
| Total | \$ 759,605 | \$ (266,161) | \$ 493,444 | | \$ 749,408 | \$ (253,781) | \$ 495,627 | |

Amortization expense for other amortizable intangible assets for the years ending December 31, 2009, 2010, 2011, 2012 and 2013 is estimated to be \$49,433,000, \$48,744,000, \$47,311,000, \$46,695,000, and \$45,794,000, respectively.

NOTE 8 · Investments

Investments consisted of the following:

| <i>(in thousands)</i> | March 31, 2009 | | December 31, 2008 | |
|--|----------------|-----------------|-------------------|-----------------|
| | Current | Non- Current | Current | Non- Current |
| Available-for-sale marketable equity securities | \$ 25 | \$ | \$ 46 | \$ |
| Non-marketable equity securities and certificates of deposit | 7,446 | 287 | 7,465 | 287 |
| Total investments | \$ 7,471 | \$ 287 | \$ 7,511 | \$ 287 |

The following table summarizes available-for-sale securities:

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| <i>(in thousands)</i> | Cost | Gross Unrealized Gains | Gross Unrealized Losses | Estimated Fair Value |
|-------------------------------|-------------|---------------------------------------|--|-------------------------------------|
| Marketable equity securities: | | | | |
| March 31, 2009 | \$ 25 | \$ | \$ (1) | \$ 24 |
| December 31, 2008 | \$ 25 | \$ 21 | \$ | \$ 46 |

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The following table summarizes the proceeds and realized gains/(losses) on non-marketable equity securities and certificates of deposit for the three months ended March 31, 2009 and 2008:

| <i>(in thousands)</i> | Proceeds | Gross Realized Gains | Gross Realized Losses |
|-----------------------------|----------|----------------------------|-----------------------------|
| For the three months ended: | | | |
| March 31, 2009 | \$ 562 | \$ | \$ |
| March 31, 2008 | \$ 50 | \$ 78 | \$ |

NOTE 9 • Long-Term Debt

Long-term debt at March 31, 2009 and December 31, 2008 consisted of the following:

| <i>(in thousands)</i> | 2009 | 2008 |
|---------------------------|-------------------|-------------------|
| Unsecured senior notes | \$ 250,000 | \$ 250,000 |
| Acquisition notes payable | 7,860 | 9,665 |
| Revolving credit facility | | |
| Other notes payable | 93 | 113 |
| Total debt | 257,953 | 259,778 |
| Less current portion | (6,526) | (6,162) |
| Long-term debt | \$ 251,427 | \$ 253,616 |

In 2004, the Company completed a private placement of \$200.0 million of unsecured senior notes (the *Notes*). The \$200.0 million is divided into two series: (1) Series A, which closed on September 15, 2004, for \$100.0 million due in 2011 and bearing interest at 5.57% per year; and (2) Series B, which closed on July 15, 2004, for \$100.0 million due in 2014 and bearing interest at 6.08% per year. Brown & Brown used the proceeds from the Notes for general corporate purposes, including acquisitions and repayment of existing debt. As of March 31, 2009 and December 31, 2008, there was an outstanding balance of \$200.0 million on the Notes.

On December 22, 2006, the Company entered into a Master Shelf and Note Purchase Agreement (the *Master Agreement*) with a national insurance company (the *Purchaser*). The Purchaser also purchased Notes issued by the Company in 2004. The Master Agreement provides for a \$200.0 million private uncommitted shelf facility for the issuance of senior unsecured notes over a three-year period, with interest rates that may be fixed or floating and with such maturity dates, not to exceed ten years, as the parties may determine. The Master Agreement includes various covenants, limitations and events of default similar to the Notes issued in 2004. The initial issuance of notes under the Master Agreement occurred on December 22, 2006, through the issuance of \$25.0 million in Series C Senior Notes due December 22, 2016, with a fixed interest rate of 5.66% per year. On February 1, 2008, \$25.0 million in Series D Senior Notes due January 15, 2015, with a fixed interest rate of 5.37% per year were issued. As of March 31, 2009 and December 31, 2008 there was an outstanding balance of \$50.0 million under the Master Agreement.

On June 12, 2008, the Company entered into an Amended and Restated Revolving Loan Agreement (the *Loan Agreement*) with a national banking institution that was dated as of June 3, 2008, amending and restating the existing Revolving Loan Agreement dated September 29, 2003, as amended (the *Revolving Agreement*), in order to increase the lending commitment to \$50.0 million (subject to potential increases up to \$100.0 million) and to extend the maturity date from December 20, 2011 to June 3, 2013. The Revolving Agreement initially provided for a revolving credit facility in the maximum principal amount of \$75.0 million. After a series of amendments that provided covenant exceptions for the notes issued or to be issued under the Master Agreement and relaxed or deleted certain other covenants, the maximum principal amount was reduced to \$20.0 million. The calculation of interest and fees is generally based on the Company's quarterly ratio of funded debt to earnings before interest, taxes, depreciation, amortization, and non-cash stock-based compensation. Interest is charged at a rate equal to 0.50% to 1.00% above the London Interbank Offering Rate (LIBOR) or 1.00% below the base rate, each as more fully defined in the Loan Agreement. Fees include an upfront fee, an availability fee of 0.10% to 0.20%, and a letter of credit usage fee of 0.50% to 1.00%. The Loan Agreement contains various covenants, limitations, and events of default customary for similar facilities for similar borrowers. The 90-day LIBOR was 1.19% and 1.43% as of March 31, 2009 and December 31, 2008, respectively. There were no borrowings against this facility at March 31, 2009 or

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December 31, 2008.

All three of these outstanding credit agreements require Brown & Brown to maintain certain financial ratios and comply with certain other covenants. Brown & Brown was in compliance with all such covenants as of March 31, 2009 and December 31, 2008.

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Acquisition notes payable represent debt incurred to former owners of certain insurance operations acquired by Brown & Brown. These notes and future contingent payments are payable in monthly, quarterly and annual installments through April 2011, including interest in the range from 0.0% to 6.0%.

NOTE 10 • Supplemental Disclosures of Cash Flow Information and Non-Cash Financing and Investing Activities

| <i>(in thousands)</i> | For the three months ended March 31, | |
|----------------------------------|--------------------------------------|----------|
| | 2009 | 2008 |
| Cash paid during the period for: | | |
| Interest | \$ 6,171 | \$ 5,778 |
| Income taxes | \$ 5,950 | \$ 124 |

Brown & Brown's significant non-cash investing and financing activities are summarized as follows:

| <i>(in thousands)</i> | For the three months ended March 31, | |
|--|--------------------------------------|----------|
| | 2009 | 2008 |
| Unrealized holding (loss) gain on available-for-sale securities, net of tax benefit of \$8 for 2009; net of tax effect of \$1 for 2008 | \$ (14) | \$ 1 |
| Notes payable issued or assumed for purchased customer accounts | \$ 2,253 | \$ 2,042 |

NOTE 11 • Comprehensive Income

The components of comprehensive income, net of related income tax effects, are as follows:

| <i>(in thousands)</i> | For the three months ended March 31, | |
|---|--------------------------------------|-----------|
| | 2009 | 2008 |
| Net income | \$ 48,012 | \$ 51,760 |
| Net unrealized holding (loss) gain on available-for-sale securities | (14) | 1 |
| Comprehensive income | \$ 47,998 | \$ 51,761 |

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NOTE 12 · Legal and Regulatory Proceedings

Legal Proceedings

The Company is involved in numerous pending or threatened proceedings by or against Brown & Brown, Inc. or one or more of its subsidiaries that arise in the ordinary course of business. The damages that may be claimed against the Company in these various proceedings are in some cases substantial, including in many instances claims for punitive or extraordinary damages. Some of these claims and lawsuits have been resolved, others are in the process of being resolved and others are still in the investigation or discovery phase. The Company will continue to respond appropriately to these claims and lawsuits and to vigorously protect its interests.

Although the ultimate outcome of such matters cannot be ascertained and liabilities in indeterminate amounts may be imposed on Brown & Brown, Inc. or its subsidiaries, on the basis of present information, availability of insurance and legal advice, it is the opinion of management that the disposition or ultimate determination of such claims will not have a material adverse effect on the Company's consolidated financial position. However, as (i) one or more of the Company's insurance carriers could take the position that portions of these claims are not covered by the Company's insurance, (ii) to the extent that payments are made to resolve claims and lawsuits, applicable insurance policy limits are eroded and (iii) the claims and lawsuits relating to these matters are continuing to develop, it is possible that future results of operations or cash flows for any particular quarterly or annual period could be materially affected by unfavorable resolutions of these matters.

Governmental Investigations Regarding Compensation Practices

As disclosed in prior years, offices of the Company are parties to profit-sharing contingent commission agreements with certain insurance companies, including agreements providing for potential payment of revenue-sharing commissions by insurance companies based primarily on the overall profitability of the aggregate business written with those insurance companies and/or additional factors such as retention ratios and the overall volume of business that an office or offices place with those insurance companies. Additionally, to a lesser extent, some offices of the Company are parties to override commission agreements with certain insurance companies, which provide for commission rates in excess of standard commission rates to be applied to specific lines of business, such as group health business, and which are based primarily on the overall volume of business that such office or offices placed with those insurance companies. The Company has not chosen to discontinue receiving profit-sharing contingent commissions or override commissions.

Governmental agencies such as departments of insurance and offices of attorneys general, in a number of states have looked or are looking into issues related to compensation practices in the insurance industry, and the Company continues to respond to written and oral requests for information and/or subpoenas seeking information related to this topic. The Company is currently in litigation commenced by the Company against the Attorney General's Office in Connecticut in an effort to protect the confidentiality of information sought by, or produced in response to, a subpoena. In addition, agencies in Arizona, Virginia, Washington and Florida have concluded their respective investigations of subsidiaries of Brown & Brown, Inc. based in those states.

The Company cannot currently predict the impact or resolution of the various governmental inquiries or related matters and thus cannot reasonably estimate a range of possible loss, which could be material, or whether the resolution of these matters may harm the Company's business and/or lead to a decrease in or elimination of profit-sharing contingent commissions and override commissions, which could have a material adverse impact on the Company's consolidated financial condition.

For a more complete discussion of the foregoing matters, please see Item 3 of Part I of our Annual Report on Form 10-K filed with the Securities and Exchange Commission for our fiscal year ended December 31, 2008 and Note 13 to the Consolidated Financial Statements contained in Item 8 of Part II thereof.

NOTE 13 · Segment Information

Brown & Brown's business is divided into four reportable segments: the Retail Division, which provides a broad range of insurance products and services to commercial, governmental, professional and individual customers; the Wholesale Brokerage Division, which markets and sells excess and surplus commercial and personal lines insurance, and reinsurance, primarily through independent agents and brokers; the National Programs Division, which is comprised of two units Professional Programs, which provides professional liability and related package products for certain professionals delivered through nationwide networks of independent agents, and Special Programs, which markets targeted products and services designed for specific industries, trade groups, public and quasi-public entities, and market niches; and the Services Division, which provides insurance-related services, including third-party administration, consulting for the workers' compensation and employee benefit self-insurance markets, managed healthcare services and Medicare set-aside services. Brown & Brown conducts all of its operations within the United States of America except for one start-up wholesale brokerage operation based in London, England that commenced business in March

2008 and had \$2.6 million of revenues for the year ended December 31, 2008.

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Summarized financial information concerning Brown & Brown's reportable segments for the three months ended March 31, 2009 and 2008 is shown in the following table. The Other column includes any income and expenses not allocated to reportable segments and corporate-related items, including the inter-company interest expense charge to the reporting segment.

| <i>(in thousands)</i> | <i>For the three months ended March 31, 2009</i> | | | | | Total |
|----------------------------|--|--------------------------------|------------------------------|-----------------|--------------|--------------|
| | Retail | Wholesale Brokerage | National Programs | Services | Other | |
| Total revenues | \$ 158,050 | \$ 38,981 | \$ 57,921 | \$ 8,091 | \$ 537 | \$ 263,580 |
| Investment income | 64 | 29 | 1 | 6 | 210 | 310 |
| Amortization | 7,432 | 2,559 | 2,269 | 115 | 10 | 12,385 |
| Depreciation | 1,544 | 716 | 660 | 100 | 313 | 3,333 |
| Interest | 8,523 | 3,901 | 1,469 | 193 | (10,452) | 3,634 |
| Income before income taxes | 38,040 | 2,989 | 26,394 | 1,722 | 10,062 | 79,207 |
| Total assets | 1,727,803 | 635,991 | 616,140 | 45,526 | (878,144) | 2,147,316 |
| Capital expenditures | 1,146 | 1,044 | 1,083 | 7 | (122) | 3,158 |

| <i>(in thousands)</i> | <i>For the three months ended March 31, 2008</i> | | | | | Total |
|----------------------------|--|--------------------------------|------------------------------|-----------------|--------------|--------------|
| | Retail | Wholesale Brokerage | National Programs | Services | Other | |
| Total revenues | \$ 157,213 | \$ 46,334 | \$ 44,070 | \$ 7,938 | \$ 1,160 | \$ 256,715 |
| Investment income | 191 | 459 | 109 | 5 | 1,235 | 1,999 |
| Amortization | 6,218 | 2,498 | 2,275 | 115 | 10 | 11,116 |
| Depreciation | 1,460 | 738 | 641 | 112 | 295 | 3,246 |
| Interest | 6,331 | 4,797 | 2,117 | 194 | (10,005) | 3,434 |
| Income before income taxes | 47,332 | 7,236 | 16,036 | 1,776 | 12,204 | 84,584 |
| Total assets | 1,466,811 | 643,717 | 553,612 | 40,193 | (718,184) | 1,986,149 |
| Capital expenditures | 1,168 | 1,246 | 396 | 55 | 1,196 | 4,061 |

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ITEM 2 MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS.

THE FOLLOWING DISCUSSION UPDATES THE MD&A CONTAINED IN THE COMPANY'S ANNUAL REPORT ON FORM 10-K FOR THE FISCAL YEAR ENDED IN 2008, AND THE TWO DISCUSSIONS SHOULD BE READ TOGETHER.

GENERAL

We are a diversified insurance agency, wholesale brokerage and services organization headquartered in Daytona Beach and Tampa, Florida. As an insurance intermediary, our principal sources of revenue are commissions paid by insurance companies and, to a lesser extent, fees paid directly by customers. Commission revenues generally represent a percentage of the premium paid by an insured and are materially affected by fluctuations in both premium rate levels charged by insurance companies and the insureds' underlying insurable exposure units, which are units that insurance companies use to measure or express insurance exposed to risk (such as property values, sales and payroll levels) in order to determine what premium to charge the insured. These premium rates are established by insurance companies based upon many factors, including reinsurance rates paid by insurance carriers, none of which we control.

The volume of business from new and existing insured customers, fluctuations in insurable exposure units and changes in general economic and competitive conditions all affect our revenues. For example, level rates of inflation or a continuing general decline in economic activity could limit increases in the values of insurable exposure units. Conversely, the increasing costs of litigation settlements and awards have caused some customers to seek higher levels of insurance coverage. Historically, our revenues have continued to grow as a result of an intense focus by us on net new business growth and acquisitions.

Our culture is a strong, decentralized sales culture with a focus on consistent, sustained growth over the long term. Our senior leadership group includes 11 executive officers with regional responsibility for oversight of designated operations within the Company. Our publicly announced succession plan calls for J. Powell Brown, who currently serves as President of Brown & Brown, Inc., to succeed his father, J. Hyatt Brown, when he steps down from the position of Chief Executive Officer in July 2009. The plan also envisions that Mr. Hyatt Brown will continue to serve as Chairman of the Board, and will continue to be actively involved with acquisitions and recruitment.

We have increased annual revenues from \$95.6 million in 1993 (as originally stated, without giving effect to any subsequent acquisitions accounted for under the pooling-of-interests method of accounting) to \$977.6 million in 2008, a compound annual growth rate of 16.8%. In the same period, we increased annual net income from \$8.0 million (as originally stated, without giving effect to any subsequent acquisitions accounted for under the pooling-of-interests method of accounting) to \$166.1 million in 2008, a compound annual growth rate of 22.4%. From 1993 through 2006, excluding the historical impact of poolings, our pre-tax margins (income before income taxes and minority interest divided by total revenues) improved in all but one year, and in that year, the pre-tax margin was essentially flat. These improvements resulted primarily from net new business growth (new business production offset by lost business), revenues generated by acquisitions, and continued operating efficiencies.

We experienced increased overall revenue growth in 2008, which was primarily attributable to our acquisition in 2008 of 45 agency entities and several books of business (customer accounts) that generated total annualized revenues of approximately \$120.2 million. In the first quarter of 2009, we acquired two agency entities and a book of business (customer accounts) that generated total annualized revenues of approximately \$11.4 million.

Despite this increased overall revenue growth, however, the past two years have posed significant challenges for us and for our industry in the form of a prevailing decline in insurance premium rates, commonly referred to as a soft market, increased significant governmental involvement in the Florida insurance marketplace and beginning in the second half of 2008, increased pressure on the value of insurable exposure units as the consequence of the general weakening of the economy in the United States. Due to these challenges, among others, we have suffered substantial loss of revenues. While insurance premium rates declined during most of 2008 in most lines of coverage, the rate of the decline seemed to slow in the second half of the year and the first quarter of 2009. In 2009, continued declining exposure units are likely to have a greater negative impact on our commissions and fees revenues than will any declining insurance premium rates.

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We also earn profit-sharing contingent commissions, which are profit-sharing commissions based primarily on underwriting results, but may also reflect considerations for volume, growth and/or retention. These commissions are primarily received in the first and second quarters of each year, based on underwriting results and the other aforementioned considerations for the prior year(s). Over the last three years, profit-sharing contingent commissions have averaged approximately 6.1% of the previous year's total commissions and fees revenue. Profit-sharing contingent commissions are typically included in our total commissions and fees in the Consolidated Statements of Income in the year received. The term core commissions and fees that we use herein excludes profit-sharing contingent commissions and therefore represents the revenues earned directly from specific insurance policies sold, and specific fee-based services rendered. In 2007 and 2008, six national insurance companies announced the replacement of the current loss-ratio based profit-sharing contingent commission calculation with a more guaranteed fixed-based methodology, referred to as Guaranteed Supplemental Commissions (GSC). Since this new GSC is not subject to the uncertainty of loss ratios, earnings are accrued throughout the year based on actual premiums written and included in our calculations of core commissions and fees. As of December 31, 2008, \$13.4 million was earned from GSC during 2008. Most of this total was collected in the first quarter of 2009. For the three months ended March 31, 2009 and 2008, \$4.4 million and \$2.8 million, respectively was earned from GSC.

Fee revenues are generated primarily by: (1) our Services Division, which provides insurance-related services, including third-party claims administration and comprehensive medical utilization management services in both the workers' compensation and all-lines liability arenas, as well as Medicare set-aside services, and (2) our Wholesale Brokerage and National Program Divisions which earn fees primarily for the issuance of insurance policies on behalf of insurance carriers. Fee revenues, as a percentage of our total commissions and fees, represented 13.7% in 2008, 14.3% in 2007 and 14.1% in 2006.

Investment income historically consists primarily of interest earnings on premiums and advance premiums collected and held in a fiduciary capacity before being remitted to insurance companies. Our policy is to invest available funds in high-quality, short-term fixed income investment securities. As a result of the bank liquidity and solvency issues in the United States in the last quarter of 2008, we moved substantial amounts of our cash into non-interest bearing checking accounts so that they would be fully insured by the Federal Depository Insurance Corporation (FDIC) or into money-market investment funds, (a portion of which recently became FDIC insured) of SunTrust and Wells Fargo, two large banks. Investment income also includes gains and losses realized from the sale of investments.

Florida Insurance Overview

Many states have established Residual Markets, which are governmental or quasi-governmental insurance facilities that provide coverage to individuals and/or businesses that cannot buy insurance in the private marketplace, i.e., insurers of last resort. These facilities can be for any type of risk or exposure; however, the most common are usually automobile or high-risk property coverage. Residual Markets can also be referred to as: FAIR Plans, Windstorm Pools, Joint Underwriting Associations, or may even be given names styled after the private sector such as Citizens Property Insurance Corporation.

In August 2002, the Florida Legislature created Citizens Property Insurance Corporation (Citizens) to be the insurer of last resort in Florida and Citizens therefore charged insurance rates that were higher than those prevailing in the general private insurance marketplace. In each of 2004 and 2005, four major hurricanes made landfall in Florida, and as a result of the significant insurance property losses, insurance rates increased in 2006. To counter the increased property insurance rates, the State of Florida instructed Citizens to essentially cut its property insurance rates in half beginning in January 2007. By state law, Citizens has guaranteed these rates through January 1, 2010. Therefore, Citizens became one of the most, if not the most, competitive risk-bearers for a large percentage of the commercial habitational coastal property exposures, such as condominiums, apartments, and certain assisted living facilities. Additionally, Citizens became the only reasonably available insurance market for certain homeowner policies throughout Florida. By the end of 2007 and throughout 2008 and the first quarter of 2009, Citizens was one of the largest underwriters of coastal property exposures in Florida.

Since Citizens became the principal direct competitor of the insurance carriers that underwrite the condominium program administered by Florida Intracoastal Underwriters (FIU), one of our indirect subsidiaries, and the excess and surplus lines insurers represented by our Florida-based wholesale brokers such as Hull & Company, another of our subsidiaries, these operations lost significant amounts of revenue to Citizens during 2007. During 2008, FIU's revenues were relatively flat and therefore, Citizens's impact was not as dramatic as in 2007. However, Citizens continued to be very competitive against the excess and surplus lines insurers and therefore significantly negatively affected the revenues of our Florida-based wholesale brokerage operations.

Citizens's impact on our Florida Retail Division was less severe than on our National Program and Wholesale Brokerage Divisions, because to our Florida Retail Division, Citizens represents another risk-bearer with which to write business, although at slightly lower commission rates and greater difficulty in placing coverage. Citizens's rates for 2009 will remain relatively unchanged; however, if pending legislation is signed into law, Citizens's rates will increase by approximately 10% effective January 1, 2010.

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Company Overview First Quarter of 2009

For the ninth consecutive quarter, we recorded negative internal revenue growth of our commissions and fees revenues as a direct result of the continuing soft market, the competitiveness of Citizens, and the general weakness of the economy since the second half of 2008. Our total commissions and fees revenues excluding the effect of recent acquisitions, profit-sharing contingencies and sales of books of businesses over the last three months, had a negative internal growth rate of (2.2)%. Offsetting the negative internal growth rate was a strong quarter of revenue from acquisitions completed in 2008 and the first quarter of 2009.

Acquisitions

During the first quarter of 2009, we acquired the assets and assumed certain liabilities of two insurance intermediary operations, and a book of business (customer accounts). The aggregate purchase price was \$29.3 million, including \$26.4 million of net cash payments, the issuance, the assumption of \$0.7 million of liabilities and \$2.2 million of recorded earn-out payables. These acquisitions had estimated aggregate annualized revenues of \$11.4 million.

During the first quarter of 2008, we acquired the assets and assumed certain liabilities of eight insurance intermediary operations, the stock of one insurance intermediary and several books of business (customer accounts). The aggregate purchase price was \$79.4 million, including \$71.5 million of net cash payments, the issuance of \$2.0 million in notes payable and the assumption of \$5.9 million of liabilities. These acquisitions had estimated aggregate annualized revenues of \$30.2 million.

Critical Accounting Policies

Our Consolidated Financial Statements are prepared in accordance with accounting principles generally accepted in the United States of America (GAAP). The preparation of these financial statements requires us to make estimates and judgments that affect the reported amounts of assets, liabilities, revenues and expenses. We continually evaluate our estimates, which are based on historical experience and on various other assumptions that we believe to be reasonable under the circumstances. These estimates form the basis for our judgments about the carrying values of our assets and liabilities, which values are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions.

We believe that of our significant accounting and reporting policies, the more critical policies include our accounting for revenue recognition, business acquisitions and purchase price allocations, intangible asset impairments and reserves for litigation. In particular, the accounting for these areas requires significant judgments to be made by management. Different assumptions in the application of these policies could result in material changes in our consolidated financial position or consolidated results of operations. Refer to Note 1 in the Notes to Consolidated Financial Statements in our Annual Report on Form 10-K for the year ended December 31, 2008 on file with the Securities and Exchange Commission (SEC) for details regarding our critical and significant accounting policies. In addition, refer to Note 4 in the Notes to Condensed Consolidated Financial Statements in this Quarterly Report on Form 10-Q for the quarter ended March 31, 2009, for a description of the new accounting rules governing business acquisitions.

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The following discussion and analysis regarding results of operations and liquidity and capital resources should be considered in conjunction with the accompanying Condensed Consolidated Financial Statements and related Notes.

Financial information relating to our Condensed Consolidated Financial Results for the three-month periods ended March 31, 2009 and 2008 is as follows (in thousands, except percentages):

| | For the three months ended March 31, | | |
|--|--------------------------------------|------------------|---------------|
| | 2009 | 2008 | % Change |
| REVENUES | | | |
| Commissions and fees | \$ 234,038 | \$ 217,181 | 7.8% |
| Profit-sharing contingent commissions | 29,926 | 36,347 | (17.7)% |
| Investment income | 310 | 1,999 | (84.5)% |
| Other (loss) income, net | (694) | 1,188 | NMF |
| Total revenues | 263,580 | 256,715 | 2.7% |
| EXPENSES | | | |
| Employee compensation and benefits | 127,341 | 121,187 | 5.1% |
| Non-cash stock-based compensation | 1,816 | 1,944 | (6.6)% |
| Other operating expenses | 35,864 | 31,204 | 14.9% |
| Amortization | 12,385 | 11,116 | 11.4% |
| Depreciation | 3,333 | 3,246 | 2.7% |
| Interest | 3,634 | 3,434 | 5.8% |
| Total expenses | 184,373 | 172,131 | 7.1% |
| Income before income taxes | 79,207 | 84,584 | (6.4)% |
| Income taxes | 31,195 | 32,824 | (5.0)% |
| NET INCOME | \$ 48,012 | \$ 51,760 | (7.2)% |
| Net internal growth rate – core commissions and fees | (2.2)% | (4.1)% | |
| Employee compensation and benefits ratio | 48.3% | 47.2% | |
| Other operating expenses ratio | 13.6% | 12.2% | |
| Capital expenditures | \$ 3,158 | \$ 4,061 | |
| Total assets at March 31, 2009 and 2008 | \$ 2,147,316 | \$ 1,986,149 | |

Commissions and Fees

Commissions and fees, including profit-sharing contingent commissions, for the first quarter of 2009 increased \$10.4 million, or 4.1%, over the same period in 2008. Profit-sharing contingent commissions for the first quarter of 2009 decreased \$6.4 million from the first quarter of 2008, to \$29.9 million due to the insurance carriers' lower profitability in 2008 compared with 2007. Core commissions and fees are our commissions and fees, less (i) profit-sharing contingent commissions and (ii) divested business (commissions and fees generated from offices, books of business or niches sold or terminated). Core commissions and fees revenue for the first quarter of 2009 increased \$18.7 million, of which approximately \$23.4 million represents core commissions and fees from agencies acquired since the first quarter of 2008. After divested business of \$1.9 million, the remaining net decrease of \$4.7 million represents net lost business, which reflects a (2.2%) internal growth rate for core commissions and fees.

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Investment Income

Investment income for the three months ended March 31, 2009 decreased \$1.7 million, or 84.5%, from the same period in 2008 due mainly to lower investment yields.

Other (Loss) Income, net

Other (loss) income for the three months ended March 31, 2009 was a loss of \$0.7 million, compared with an income of \$1.2 million in the same period in 2008. Other income consists primarily of gains and losses from the sale and disposition of assets. Although we are not in the business of selling customer accounts, we periodically will sell an office or a book of business (one or more customer accounts) that does not produce reasonable margins or demonstrate a potential for growth.

Employee Compensation and Benefits

Employee compensation and benefits for the first quarter of 2009 increased \$6.2 million, or 5.1%, over the same period in 2008. This increase is primarily related to the addition of new employees from acquisitions completed since April 1, 2008. Employee compensation and benefits as a percentage of total revenue increased to 48.3% for the first quarter of 2009, from 47.2% for the first quarter of 2008. This increase in the expense percentage represents approximately \$6.2 million in net additional costs, of which \$9.9 million relates to acquisitions that were stand-alone offices. Therefore, excluding the impact of acquisitions of stand-alone offices, there was a net reduction of \$3.7 million in employee compensation and benefits which mainly represents lower profit center bonuses, salaries and commissioned producer expense.

Non-Cash Stock-Based Compensation

Non-cash stock-based compensation for the three months ended March 31, 2009 decreased approximately \$0.1 million, or 6.6%, from the same period in 2008. For the entire year of 2009, we expect the total non-cash stock-based compensation expense to be approximately \$7.5 million, as compared with the total cost of \$7.3 million for the year 2008. The increased annual estimated cost primarily relates to new grants of performance stock (PSP) and incentive stock options issued in February 2008.

Other Operating Expenses

Other operating expenses for the first quarter of 2009 increased \$4.7 million, or 14.9%, over the same period in 2008. Acquisitions since April 1, 2008 that resulted in stand-alone offices resulted in approximately \$2.4 million of this increase in other operating expenses. Therefore, there was a net increase in other operating expenses of approximately \$2.3 million with respect to offices in existence in the first quarters of both 2009 and 2008. Of this \$2.3 million increase, approximately \$1.4 million was the result of increased error and omission expenses and reserves, and approximately \$0.9 million was from increased bad debt write-offs.

Amortization

Amortization expense for the first quarter of 2009 increased \$1.3 million, or 11.4%, over the first quarter of 2008. This increase is primarily due to the amortization of additional intangible assets as the result of acquisitions completed since April 1, 2008.

Depreciation

Depreciation expense for the first quarter of 2009 increased \$0.1 million, or 2.7%, over the first quarter of 2008. This increase is due primarily to the purchase of new computers, related equipment and software, and the depreciation associated with acquisitions completed since April 1, 2008.

Interest Expense

Interest expense for the first quarter of 2009 increased \$0.2 million, or 5.8%, over the same period in 2008 as a result of borrowing an additional \$25.0 million on February 1, 2008.

Table of Contents**RESULTS OF OPERATIONS - SEGMENT INFORMATION**

As discussed in Note 13 of the Notes to Condensed Consolidated Financial Statements, we operate in four reportable segments: the Retail, Wholesale Brokerage, National Programs and Services Divisions. On a divisional basis, increases in amortization, depreciation and interest expenses are the result of acquisitions within a given division in a particular year. Likewise, other income in each division primarily reflects net gains on sales of customer accounts and fixed assets. As such, in evaluating the operational efficiency of a division, management places emphasis on the net internal growth rate of core commissions and fees revenue, the gradual improvement of the ratio of employee compensation and benefits to total revenues, and the gradual improvement of the percentage of other operating expenses to total revenues.

The internal growth rates for our core commissions and fees for the three months ended March 31, 2009 and 2008, by divisional units are as follows (in thousands, except percentages):

| 2009 | For the three months ended March 31, | | Total | Total Net Growth % | Less | Internal | Internal |
|--|--------------------------------------|------------|------------|--------------------|----------------------|---------------|--------------|
| | 2009 | 2008 | Net Change | | Acquisition Revenues | Net Growth \$ | Net Growth % |
| Florida Retail | \$ 40,131 | \$ 41,227 | \$ (1,096) | (2.7)% | \$ 3,667 | \$ (4,763) | (11.6)% |
| National Retail | 77,527 | 70,156 | 7,371 | 10.5% | 11,443 | (4,072) | (5.8)% |
| Western Retail | 25,293 | 21,087 | 4,206 | 19.9% | 7,566 | (3,360) | (15.9)% |
| Total Retail(1) | 142,951 | 132,470 | 10,481 | 7.9% | 22,676 | (12,195) | (9.2)% |
| Wholesale Brokerage | 34,462 | 36,878 | (2,416) | (6.6)% | 718 | (3,134) | (8.5)% |
| Professional Programs | 10,572 | 10,245 | 327 | 3.2% | | 327 | 3.2% |
| Special Programs | 37,968 | 27,800 | 10,168 | 36.6% | | 10,168 | 36.6% |
| Total National Programs | 48,540 | 38,045 | 10,495 | 27.6% | | 10,495 | 27.6% |
| Services | 8,085 | 7,933 | 152 | 1.9% | | 152 | 1.9% |
| Total Core Commissions and Fees | \$ 234,038 | \$ 215,326 | \$ 18,712 | 8.7% | \$ 23,394 | \$ (4,682) | (2.2)% |

The reconciliation of the above internal growth schedule to the total Commissions and Fees included in the Condensed Consolidated Statements of Income for the three months ended March 31, 2009 and 2008 is as follows (in thousands, except percentages):

| | For the three months ended March 31, | |
|---------------------------------------|--------------------------------------|------------|
| | 2009 | 2008 |
| Total core commissions and fees | \$ 234,038 | \$ 215,326 |
| Profit-sharing contingent commissions | 29,926 | 36,347 |
| Divested business | | 1,855 |
| Total commission and fees | \$ 263,964 | \$ 253,528 |

- (1) The Retail segment includes commissions and fees reported in the Other column of the Segment Information in Note 13 of the Notes to the Condensed Consolidated Financial Statements, which includes corporate and consolidation items.

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| 2008 | For the three months ended March 31, | | Total Net Change | Total Net Growth % | Less Acquisition Revenues | Internal Net Growth \$ | Internal Net Growth % |
|--|--------------------------------------|------------|------------------|--------------------|---------------------------|------------------------|-----------------------|
| | 2008 | 2007 | | | | | |
| Florida Retail | \$ 41,635 | \$ 43,891 | \$ (2,256) | (5.1)% | \$ 921 | \$ (3,177) | (7.2)% |
| National Retail | 70,685 | 51,701 | 18,984 | 36.7% | 19,842 | (858) | (1.7)% |
| Western Retail | 21,704 | 22,426 | (722) | (3.2)% | 262 | (984) | (4.4)% |
| Total Retail(1) | 134,024 | 118,018 | 16,006 | 13.6% | 21,025 | (5,019) | (4.3)% |
| Wholesale Brokerage | 37,039 | 37,267 | (228) | (0.6)% | 4,979 | (5,207) | (14.0)% |
| Professional Programs | 10,385 | 10,438 | (53) | (0.5)% | | (53) | (0.5)% |
| Special Programs | 27,800 | 24,484 | 3,316 | 13.5% | 131 | 3,185 | 13.0% |
| Total National Programs | 38,185 | 34,922 | 3,263 | 9.3% | 131 | 3,132 | 9.0% |
| Services | 7,933 | 8,954 | (1,021) | (11.4)% | | (1,021) | (11.4)% |
| Total Core Commissions and Fees | \$ 217,181 | \$ 199,161 | \$ 18,020 | 9.0% | \$ 26,135 | \$ (8,115) | (4.1)% |

The reconciliation of the above internal growth schedule to the total Commissions and Fees included in the Condensed Consolidated Statements of Income for the three months ended March 31, 2008 and 2007 is as follows (in thousands, except percentages):

| | For the three months ended March 31, | |
|---------------------------------------|--------------------------------------|------------|
| | 2008 | 2007 |
| Total core commissions and fees | \$ 217,181 | \$ 199,161 |
| Profit-sharing contingent commissions | 36,347 | 44,057 |
| Divested business | | 2,341 |
| Total commission and fees | \$ 253,528 | \$ 245,559 |

- (1) The Retail segment includes commissions and fees reported in the Other column of the Segment Information in Note 13 of the Notes to the Condensed Consolidated Financial Statements, which includes corporate and consolidation items.

Table of Contents**Retail Division**

The Retail Division provides a broad range of insurance products and services to commercial, public and quasi-public, professional and individual insured customers. More than 96.0% of the Retail Division's commissions and fees revenues are commission-based. Since the majority of our operating expenses do not change as premiums fluctuate, we believe that most of any fluctuation in the commissions, net of related compensation that we receive will be reflected in our pre-tax income.

Financial information relating to Brown & Brown's Retail Division for the three month-periods ended March 31, 2009 and 2008 is as follows (in thousands, except percentages):

| | For the three months ended March 31, | | % |
|--|---|--------------|----------|
| | 2009 | 2008 | Change |
| REVENUES | | | |
| Commissions and fees | \$ 142,681 | \$ 133,810 | 6.6% |
| Profit-sharing contingent commissions | 16,170 | 21,928 | (26.3)% |
| Investment income | 64 | 191 | (66.5)% |
| Other (loss) income, net | (865) | 1,284 | (167.4)% |
| Total revenues | 158,050 | 157,213 | 0.5% |
| EXPENSES | | | |
| Employee compensation and benefits | 76,580 | 72,157 | 6.1% |
| Non-cash stock-based compensation | 1,190 | 915 | 30.1% |
| Other operating expenses | 24,741 | 22,800 | 8.5% |
| Amortization | 7,432 | 6,218 | 19.5% |
| Depreciation | 1,544 | 1,460 | 5.8% |
| Interest | 8,523 | 6,331 | 34.6% |
| Total expenses | 120,010 | 109,881 | 9.2% |
| Income before income taxes | \$ 38,040 | \$ 47,332 | (19.6)% |
| Net internal growth rate – core commissions and fees | (9.2)% | (4.3)% | |
| Employee compensation and benefits ratio | 48.5% | 45.9% | |
| Other operating expenses ratio | 15.7% | 14.5% | |
| Capital expenditures | \$ 1,146 | \$ 1,168 | |
| Total assets at March 31, 2009 and 2008 | \$ 1,727,803 | \$ 1,466,811 | |

The Retail Division's total revenues during the three months ended March 31, 2009 increased 0.5%, or \$ 0.8 million, over the same period in 2008, to \$158.1 million. Profit-sharing contingent commissions for the first quarter of 2009 decreased \$5.8 million, or 26.3%, from the first quarter of 2008. Of the \$8.9 million net increase in commissions and fees, (i) an increase of approximately \$22.7 million related to the core commissions and fees from acquisitions that had no comparable revenues in the same period of 2008; (ii) a decrease of \$1.6 million related to commissions and fees recorded in the first quarter of 2008 from business divested during 2009; and (iii) the remaining net decrease of \$12.2 million is primarily related to net lost business. The Retail Division's internal growth rate for core commissions and fees was (9.2)% for the first quarter of 2009, and was driven by lower insurance property rates and reduced insurable exposure units in most areas of the United States.

Income before income taxes for the three months ended March 31, 2009 decreased 19.6%, or \$ 9.3 million, from the same period in 2008, to \$38.0 million. This decrease is primarily due to net lost business, less profit-sharing contingent commissions and losses on the sale of a few books of businesses.

Table of Contents**Wholesale Brokerage Division**

The Wholesale Brokerage Division markets and sells excess and surplus commercial and personal lines insurance and reinsurance, primarily through independent agents and brokers. Like the Retail and National Programs Divisions, the Wholesale Brokerage Division's revenues are primarily commission-based.

Financial information relating to our Wholesale Brokerage Division for the three month-periods ended March 31, 2009 and 2008 is as follows (in thousands, except percentages):

| | For the three months ended March 31, | | % |
|--|---|------------|---------|
| | 2009 | 2008 | Change |
| REVENUES | | | |
| Commissions and fees | \$ 34,462 | \$ 37,039 | (7.0)% |
| Profit-sharing contingent commissions | 4,370 | 8,669 | (49.6)% |
| Investment income | 29 | 459 | (93.7)% |
| Other income, net | 120 | 167 | (28.1)% |
| Total revenues | 38,981 | 46,334 | (15.9)% |
| EXPENSES | | | |
| Employee compensation and benefits | 20,507 | 22,891 | (10.4)% |
| Non-cash stock-based compensation | 253 | 197 | 28.4% |
| Other operating expenses | 8,056 | 7,977 | 1.0% |
| Amortization | 2,559 | 2,498 | 2.4% |
| Depreciation | 716 | 738 | (3.0)% |
| Interest | 3,901 | 4,797 | (18.7)% |
| Total expenses | 35,992 | 39,098 | (7.9)% |
| Income before income taxes | \$ 2,989 | \$ 7,236 | (58.7)% |
| Net internal growth rate – core commissions and fees | (8.5)% | (14.0)% | |
| Employee compensation and benefits ratio | 52.6% | 49.4% | |
| Other operating expenses ratio | 20.7% | 17.2% | |
| Capital expenditures | \$ 1,044 | \$ 1,246 | |
| Total assets at March 31, 2009 and 2008 | \$ 635,991 | \$ 643,717 | |

The Wholesale Brokerage Division's total revenues for the three months ended March 31, 2009 decreased 15.9%, or \$7.4 million, from the same period in 2008, to \$39.0 million. Profit-sharing contingent commissions for the first quarter of 2009 decreased \$4.3 million from the same quarter of 2008. Of the \$2.6 million net decrease in commissions and fees, (i) an increase of approximately \$0.7 million related to core commissions and fees from acquisitions that had no comparable revenues in the same period of 2008; (ii) a decrease of \$0.2 million related to commissions and fees recorded in the first quarter of 2008 from business divested during 2009; and (iii) the remaining net decrease of \$3.1 million is primarily due to net lost business. As such, the Wholesale Brokerage Division's internal growth rate for core commissions and fees was (8.5)% for the first quarter of 2009. The bulk of the net lost business was due to lower insurance rates and reduced exposure units in most areas of the United States.

Income before income taxes for the three months ended March 31, 2009 decreased 58.7%, or \$4.2 million, from the same period in 2008, to \$3.0 million primarily due to net lost business and less profit-sharing contingent commissions.

Table of Contents**National Programs Division**

The National Programs Division is comprised of two units: Professional Programs, which provides professional liability and related package products for certain professionals delivered through nationwide networks of independent agents; and Special Programs, which markets targeted products and services designated for specific industries, trade groups, public and quasi-public entities and market niches. Like the Retail and Wholesale Brokerage Divisions, the National Programs Division's revenues are primarily commission-based.

Financial information relating to our National Programs Division for the three month-periods ended March 31, 2009 and 2008 is as follows (in thousands, except percentages):

| | For the three months ended March 31, | | % |
|--|---|------------|----------|
| | 2009 | 2008 | Change |
| REVENUES | | | |
| Commissions and fees | \$ 48,540 | \$ 38,185 | 27.1% |
| Profit-sharing contingent commissions | 9,386 | 5,750 | 63.2% |
| Investment income | 1 | 109 | (99.1)% |
| Other (loss) income, net | (6) | 26 | (123.1)% |
| Total revenues | 57,921 | 44,070 | 31.4% |
| EXPENSES | | | |
| Employee compensation and benefits | 19,622 | 16,589 | 18.3% |
| Non-cash stock-based compensation | 253 | 200 | 26.5% |
| Other operating expenses | 7,254 | 6,212 | 16.8% |
| Amortization | 2,269 | 2,275 | (0.3)% |
| Depreciation | 660 | 641 | 3.0% |
| Interest | 1,469 | 2,117 | (30.6)% |
| Total expenses | 31,527 | 28,034 | 12.5% |
| Income before income taxes | \$ 26,394 | \$ 16,036 | 64.6% |
| Net internal growth rate – core commissions and fees | 27.6% | 9.0% | |
| Employee compensation and benefits ratio | 33.9% | 37.6% | |
| Other operating expenses ratio | 12.5% | 14.1% | |
| Capital expenditures | \$ 1,083 | \$ 396 | |
| Total assets at March 31, 2009 and 2008 | \$ 616,140 | \$ 553,612 | |

Total revenues for National Programs for the three months ended March 31, 2009 increased 31.4%, or \$13.9 million over the same period in 2008, to \$57.9 million. Profit-sharing contingent commissions for the first quarter of 2009 increased \$3.6 million over the first quarter of 2008. There were no acquisitions in the last 12 months that contributed to the division's core commissions and fees. Therefore, the National Programs Division's internal growth rate for core commissions and fees was 27.6% for the three months ended March 31, 2009. The \$10.4 million net increase in commission and fees is nearly exclusively due to net new business generated by our Proctor Financial (Proctor) subsidiary. Proctor, which provides lender-placed insurance for financial institutions that service mortgage loans, grew from the increases in loan foreclosures and lender-placed policies. In addition, several of Proctor's clients generated non-recurring revenues in the first quarter of 2009 of approximately \$5.2 million. The revenue growth at Proctor for the remaining nine months of 2009 is expected to be consistent with the final nine months of 2008.

Income before income taxes for the three months ended March 31, 2009 increased 64.6%, or \$10.4 million over the same period in 2008, to \$26.4 million. This increase is primarily due to net new business and an increase in profit-sharing contingent commissions.

Table of Contents**Services Division**

The Services Division provides insurance-related services, including third-party claims administration and comprehensive medical utilization management services in both the workers' compensation and all-lines liability arenas, as well as Medicare set-aside services. Unlike our other segments, approximately 98.9% of the Services Division's 2008 commissions and fees revenue is generated from fees, which are not significantly affected by fluctuations in general insurance premiums.

Financial information relating to our Services Division for the three-month periods ended March 31, 2009 and 2008 is as follows (in thousands, except percentages):

| | For the three months ended March 31, | | % |
|--|---|-----------|---------|
| | 2009 | 2008 | |
| REVENUES | | | |
| Commissions and fees | \$ 8,085 | \$ 7,933 | 1.9% |
| Profit-sharing contingent commissions | | | |
| Investment income | 6 | 5 | 20.0% |
| Other income, net | | | |
| Total revenues | 8,091 | 7,938 | 1.9% |
| EXPENSES | | | |
| Employee compensation and benefits | 4,767 | 4,555 | 4.7% |
| Non-cash stock-based compensation | 41 | 35 | 17.1% |
| Other operating expenses | 1,153 | 1,151 | 0.2% |
| Amortization | 115 | 115 | |
| Depreciation | 100 | 112 | (10.7)% |
| Interest | 193 | 194 | (0.5)% |
| Total expenses | 6,369 | 6,162 | 3.4% |
| Income before income taxes | \$ 1,722 | \$ 1,776 | (3.0)% |
| Net internal growth rate – core commissions and fees | 1.9% | (11.4)% | |
| Employee compensation and benefits ratio | 58.9% | 57.4% | |
| Other operating expenses ratio | 14.3% | 14.5% | |
| Capital expenditures | \$ 7 | \$ 55 | |
| Total assets at March 31, 2009 and 2008 | \$ 45,526 | \$ 40,193 | |

The Services Division's total revenues for the three months ended March 31, 2009 increased 1.9%, or \$0.2 million, over the same period in 2008, to \$8.1 million. Core commissions and fees reflect an internal growth rate of 1.9% for the first quarter of 2009, primarily due to net new business.

Income before income taxes for the three months ended March 31, 2009 decreased 3.0%, or \$0.1 million, from the same period in 2008 to \$1.7 million, primarily due to \$0.2 million of additional salaries relating to increased staffing on a new contract.

Other

As discussed in Note 13 of the Notes to Condensed Consolidated Financial Statements, the "Other" column in the Segment Information table includes any income and expenses not allocated to reportable segments, and corporate-related items, including the inter-company interest expense charges to reporting segments.

Table of Contents**LIQUIDITY AND CAPITAL RESOURCES**

Our cash and cash equivalents of \$126.4 million at March 31, 2009 reflected an increase of \$47.9 million over the \$78.5 million balance at December 31, 2008. For the three-month period ended March 31, 2009, \$93.2 million of cash was provided from operating activities. Also during this period, \$28.0 million of cash was used for acquisitions, \$3.2 million was used for additions to fixed assets, \$4.1 million was used for payments on long-term debt and \$10.6 million was used for payment of dividends.

Our ratio of current assets to current liabilities (the *current ratio*) was 1.05 and 1.00 at March 31, 2009 and December 31, 2008, respectively.

Contractual Cash Obligations

As of March 31, 2009, our contractual cash obligations were as follows:

| <i>(in thousands)</i> | Total | Payments Due by Period | | | After 5 Years |
|---|------------|------------------------|------------|-----------|------------------|
| | | Less Than 1 Year | 1-3 Years | 4-5 Years | |
| Long-term debt | \$ 257,935 | \$ 6,508 | \$ 101,427 | \$ | \$ 150,000 |
| Capital lease obligations | 18 | 18 | | | |
| Other long-term liabilities | 14,596 | 12,388 | 379 | 477 | 1,352 |
| Operating leases | 93,412 | 25,920 | 37,825 | 18,087 | 11,580 |
| Interest obligations | 64,722 | 14,541 | 25,813 | 17,675 | 6,693 |
| Unrecognized tax benefits | 611 | | 611 | | |
| Maximum future acquisition contingency payments | 204,893 | 62,820 | 137,990 | 4,083 | |
| Total contractual cash obligations | \$ 636,187 | \$ 122,195 | \$ 304,045 | \$ 40,322 | \$ 169,625 |

In 2004, we completed a private placement of \$200.0 million of unsecured senior notes (the *Notes*). The \$200.0 million is divided into two series: Series A, for \$100.0 million due in 2011 and bearing interest at 5.57% per year; and Series B, for \$100.0 million due in 2014 and bearing interest at 6.08% per year. The closing on the Series B Notes occurred on July 15, 2004. The closing on the Series A Notes occurred on September 15, 2004. Brown & Brown used the proceeds from the Notes for general corporate purposes, including acquisitions and repayment of existing debt. As of March 31, 2009 and December 31, 2008 there was an outstanding balance of \$200.0 million on the Notes.

On December 22, 2006, we entered into a Master Shelf and Note Purchase Agreement (the *Master Agreement*) with a national insurance company (the *Purchaser*). The Purchaser also purchased Notes issued by the Company in 2004. The Master Agreement provides for a \$200.0 million private uncommitted *shelf* facility for the issuance of senior unsecured notes over a three-year period, with interest rates that may be fixed or floating and with such maturity dates, not to exceed ten years, as the parties may determine. The Master Agreement includes various covenants, limitations and events of default similar to the Notes issued in 2004. The initial issuance of notes under the Master Agreement occurred on December 22, 2006, through the issuance of \$25.0 million in Series C Senior Notes due December 22, 2016, with a fixed interest rate of 5.66% per annum. On February 1, 2008 we issued \$25.0 million in Series D Senior Notes due January 15, 2015 with a fixed interest rate of 5.37% per annum. As of March 31, 2009 and December 31, 2008 there was an outstanding balance of \$50.0 million under the Master Agreement.

On June 12, 2008, the Company entered into an Amended and Restated Revolving Loan Agreement (the *Loan Agreement*) with a national banking institution that was dated as of June 3, 2008, amending and restating the existing Revolving Loan Agreement dated September 29, 2003, as amended (the *Revolving Agreement*), in order to increase the lending commitment to \$50.0 million (subject to potential increases up to \$100.0 million) and to extend the maturity date from December 20, 2011 to June 3, 2013. The Revolving Agreement initially provided for a revolving credit facility in the maximum principal amount of \$75.0 million. After a series of amendments that provided covenant exceptions for the notes issued or to be issued under the Master Agreement and relaxed or deleted certain other covenants, the maximum principal amount was reduced to \$20.0 million. The calculation of interest and fees is generally based on the Company's quarterly ratio of funded debt to earnings before interest, taxes, depreciation, amortization, and non-cash stock-based compensation. Interest is charged at a rate equal to 0.50% to 1.00% above the London Interbank Offering Rate (*LIBOR*) or 1.00% below the base rate, each as more fully defined in the Loan Agreement. Fees include an upfront fee, an availability fee of 0.10% to 0.20%, and a letter of credit usage fee of 0.50% to 1.00%. The Loan Agreement contains various covenants, limitations, and events of default customary for similar facilities for similar borrowers. The 90-day LIBOR was 1.19% and 1.43% as of March 31, 2009 and December 31, 2008, respectively. There were no borrowings against this facility at March 31, 2009 or

December 31, 2008.

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All three of these outstanding credit agreements require us to maintain certain financial ratios and comply with certain other covenants. We were in compliance with all such covenants as of March 31, 2009 and December 31, 2008.

Neither we nor our subsidiaries has ever incurred off-balance sheet obligations through the use of, or investment in, off-balance sheet derivative financial instruments or structured finance or special purpose entities organized as corporations, partnerships or limited liability companies or trusts.

We believe that our existing cash, cash equivalents, short-term investment portfolio and funds generated from operations, together with our Master Agreement and Loan Agreement described above, will be sufficient to satisfy our normal liquidity needs through at least the next 12 months. Additionally, we believe that funds generated from future operations will be sufficient to satisfy our normal liquidity needs, including the required annual principal payments on our long-term debt.

Historically, much of our cash has been used for acquisitions. If additional acquisition opportunities should become available that exceed our current cash flow, we believe that given our relatively low debt-to-total-capitalization ratio, we might have the ability to raise additional capital through either the private or public debt or equity markets.

In addition, we currently have a shelf registration statement with the SEC registering the potential sale of an indeterminate amount of debt and equity securities in the future, from time to time, to augment our liquidity and capital resources.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Market risk is the potential loss arising from adverse changes in market rates and prices, such as interest rates and equity prices. We are exposed to market risk through our investments, revolving credit line and term loan agreements.

Our invested assets are held as cash and cash equivalents, restricted cash and investments, available-for-sale marketable equity securities, non-marketable equity securities and certificates of deposit. These investments are subject to interest rate risk and equity price risk. The fair values of our cash and cash equivalents, restricted cash and investments, and certificates of deposit at March 31, 2009 and December 31, 2008 approximated their respective carrying values due to their short-term duration and therefore such market risk is not considered to be material.

We do not actively invest or trade in equity securities. In addition, we generally dispose of any significant equity securities received in conjunction with an acquisition shortly after the acquisition date.

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ITEM 4. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

We carried out an evaluation (the Evaluation) required by Rules 13a-15 and 15d-15 under the Securities Exchange Act of 1934, as amended (the Exchange Act), under the supervision and with the participation of our Chief Executive Officer (CEO) and Chief Financial Officer (CFO), of the effectiveness of our disclosure controls and procedures as defined in Rule 13a-15 and 15d-15 under the Exchange Act (Disclosure Controls) as of March 31, 2009. Based on the Evaluation, our CEO and CFO concluded that the design and operation of our Disclosure Controls were effective to ensure that information required to be disclosed by us in reports that we file or submit under the Exchange Act is (i) recorded, processed, summarized and reported within the time periods specified in SEC rules and forms and (ii) accumulated and communicated to our senior management including our CEO and CFO, to allow timely decisions regarding required disclosures.

Changes in Internal Controls

There has not been any change in our internal control over financial reporting identified in connection with the Evaluation that occurred during the quarter ended March 31, 2009 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

Inherent Limitations of Internal Control Over Financial Reporting

Our management, including our CEO and CFO, does not expect that our Disclosure Controls and internal controls will prevent all error and all fraud. A control system, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. Further, the design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, within the Company have been detected. These inherent limitations include the realities that judgments in decision-making can be faulty, and that breakdowns can occur because of simple error or mistake. Additionally, controls can be circumvented by the individual acts of some persons, by collusion of two or more people, or by management override of the control.

The design of any system of controls also is based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions; over time, a control may become inadequate because of changes in conditions, or the degree of compliance with the policies or procedures may deteriorate. Because of the inherent limitations in a cost-effective control system, misstatements due to error or fraud may occur and not be detected.

CEO and CFO Certifications

Exhibits 31.1 and 31.2 are the Certifications of the CEO and the CFO, respectively. The Certifications are supplied in accordance with Section 302 of the Sarbanes-Oxley Act of 2002 (the Section 302 Certifications). This Item 4 of this Report is the information concerning the Evaluation referred to in the Section 302 Certifications and this information should be read in conjunction with the Section 302 Certifications for a more complete understanding of the topics presented.

PART II

ITEM 1. LEGAL PROCEEDINGS

In Item 3 of Part I of the Company's Annual Report on Form 10-K for its fiscal year ending December 31, 2008, certain information concerning certain legal proceedings and other matters was disclosed. Such information was current as of the date of filing. During the Company's fiscal quarter ending March 31, 2009, no new legal proceedings, or material developments with respect to existing legal proceedings, occurred which require disclosure in this Quarterly Report on Form 10-Q.

ITEM 1A. RISK FACTORS

There were no material changes in the risk factors previously disclosed in Item 1A, Risk Factors included in the Company's Annual Report on Form 10-K for the year ended December 31, 2008.

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ITEM 6. EXHIBITS

The following exhibits are filed as a part of this Report:

- 3.1 Articles of Amendment to Articles of Incorporation (adopted April 24, 2003) (incorporated by reference to Exhibit 3a to Form 10-Q for the quarter ended March 31, 2003), and Amended and Restated Articles of Incorporation (incorporated by reference to Exhibit 3a to Form 10-Q for the quarter ended March 31, 1999).
- 3.2 Bylaws (incorporated by reference to Exhibit 3b to Form 10-K for the year ended December 31, 2002).
- 31.1 Rule 13a-14(a)/15d-14(a) Certification by the Chief Executive Officer of the Registrant.
- 31.2 Rule 13a-14(a)/15d-14(a) Certification by the Chief Financial Officer of the Registrant.
- 32.1 Section 1350 Certification by the Chief Executive Officer of the Registrant.
- 32.2 Section 1350 Certification by the Chief Financial Officer of the Registrant.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

BROWN & BROWN, INC.

/s/ CORY T. WALKER
Cory T. Walker

Sr. Vice President, Chief Financial Officer and Treasurer

(duly authorized officer, principal financial officer and principal accounting officer)

Date: May 11, 2009