REX STORES CORP
Form 10-Q
December 03, 2009

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 10-Q

(Mark One)

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

For the quarterly period ended October 31, 2009

OR

o **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 001-09097

REX STORES CORPORATION

(Exact name of registrant as specified in its charter)

Delaware	**31-1095548**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification Number)**

2875 Needmore Road, Dayton, Ohio	**45414**
(Address of principal executive offices)	**(Zip Code)**

(937) 276-3931
(Registrant s telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes x No o

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 during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).

Yes o No o

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

Large accelerated filer	o	Accelerated filer x
Non-accelerated filer	o (Do not check if a smaller reporting company)	Smaller reporting company o

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

At the close of business on December 2, 2009 the registrant had 9,153,853 shares of Common Stock, par value $.01 per share, outstanding.

REX STORES CORPORATION AND SUBSIDIARIES

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PART I. FINANCIAL INFORMATION

Item 1. ***Financial Statements***

REX STORES CORPORATION AND SUBSIDIARIES
Consolidated Condensed Balance Sheets
Unaudited

	October 31, 2009	January 31, 2009 (In Thousands)	October 31, 2008
Assets			
Current assets:			
Cash and cash equivalents	$ 84,448	$ 91,991	$ 66,215
Restricted cash	1,025		1,318
Accounts receivable, net	9,261	4,197	4,643
Inventory, net	7,673	24,374	56,554
Refundable income taxes	4,703	7,790	2,501
Prepaid expenses and other	1,846	1,063	1,176
Deferred taxes, net	7,980	13,230	9,801
Total current assets	116,936	142,645	142,208
Property and equipment, net	253,153	235,454	221,967
Other assets	9,837	12,414	12,953
Deferred taxes, net	25,435	18,697	21,929
Investments	43,038	42,078	44,052
Total assets	$ 448,399	$ 451,288	$ 443,109
Liabilities and shareholders equity:			
Current liabilities:			
Current portion of long-term debt and capital lease obligations, alternative energy	$ 12,802	$ 5,898	$ 4,852
Current portion of long-term debt, other	369	1,576	1,541
Accounts payable, trade	9,474	25,167	38,539
Deferred income	8,813	13,510	14,140
Derivative financial instruments	2,796	1,996	507
Other current liabilities	6,492	10,122	6,208
Total current liabilities	40,746	58,269	65,787
Long-term liabilities:			
Long-term debt and capital lease obligations, alternative energy	127,450	94,003	73,089
Long-term debt, other	2,686	9,936	11,428
Deferred income	7,929	17,263	18,136
Derivative financial instruments	3,746	4,032	1,359
Other	4,462	4,152	1,176
Total long-term liabilities	146,273	129,386	105,188
Equity:			
REX shareholders equity:			
Common stock	299	299	299
Paid-in capital	142,806	142,486	142,310
Retained earnings	283,713	282,332	287,711
Treasury stock	(190,255)	(186,057)	(183,845)
Accumulated other comprehensive income, net of tax	49		
Total REX shareholders equity	236,612	239,060	246,475

Noncontrolling interests	24,768	24,573	25,659
Total equity	261,380	263,633	272,134
Total liabilities and equity	$ 448,399	$ 451,288	$ 443,109

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

REX STORES CORPORATION AND SUBSIDIARIES
Consolidated Condensed Statements Of Operations
Unaudited

	Three Months Ended October 31,		Nine Months Ended October 31,	
	2009	**2008**	**2009**	**2008**
	(In Thousands, Except Per Share Amounts)			
Net sales and revenue	$ 64,416	$ 39,171	$ 111,180	$ 99,642
Cost of sales (excluding retail segment depreciation)	56,556	35,499	96,408	83,336
Gross profit	7,860	3,672	14,772	16,306
Selling, general and administrative expenses	(2,581)	(7,578)	(8,355)	(21,746)
Investment income	92	363	356	1,732
Interest expense	(1,642)	(1,070)	(3,250)	(2,074)
Equity in income of unconsolidated ethanol affiliates	1,221	1,044	1,144	2,966
Gains on sales of real estate		2,279		2,279
Other income	766	12	666	682
(Losses) gains on derivative financial instruments, net	(899)	(947)	(1,561)	481
Income (loss) from continuing operations before provision/benefit for income taxes and discontinued operations	4,817	(2,225)	3,772	626
(Provision) benefit for income taxes	(1,510)	41	(1,450)	(701)
Income (loss) from continuing operations including noncontrolling interest	3,307	(2,184)	2,322	(75)
Loss from discontinued operations, net of tax	(22)	(344)	(873)	(103)
Gain on disposal of discontinued operations, net of tax			127	190
Net income (loss) including noncontrolling interest	3,285	(2,528)	1,576	12
Net (income) loss attributable to noncontrolling interest	(1,012)	1,878	(195)	2,070
Net income (loss) attributable to REX common shareholders	$ 2,273	$ (650)	$ 1,381	$ 2,082
Weighted average shares outstanding basic	9,161	9,937	9,229	10,389
Basic income (loss) per share from continuing operations attributable to REX common shareholders	$ 0.25	$ (0.03)	$ 0.23	$ 0.19
Basic loss per share from discontinued operations attributable to REX common shareholders		(0.04)	(0.09)	(0.01)
Basic income per share on disposal of discontinued operations attributable to REX common shareholders			0.01	0.02
Basic net income (loss) per share attributable to REX common shareholders	$ 0.25	$ (0.07)	$ 0.15	$ 0.20
Weighted average shares outstanding diluted	9,464	9,937	9,478	11,029
Diluted income (loss) per share from continuing operations attributable to REX common shareholders	$ 0.24	$ (0.03)	$ 0.23	$ 0.18
Diluted loss per share from discontinued operations attributable to REX common shareholders		(0.04)	(0.09)	(0.01)

Diluted income per share on disposal of discontinued operations attributable to REX common shareholders						0.01		0.02
Diluted net income (loss) per share attributable to REX common shareholders	$	0.24	$	(0.07)	$	0.15	$	0.19
Amounts attributable to REX common shareholders:								
Income (loss) from continuing operations, net of tax	$	2,295	$	(306)	$	2,127	$	1,995
(Loss) income from discontinued operations, net of tax		(22)		(344)		(746)		87
Net income (loss)	$	2,273	$	(650)	$	1,381	$	2,082

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

REX STORES CORPORATION AND SUBSIDIARIES
Consolidated Condensed Statements Of Equity
Unaudited

	REX Shareholders								
	Common Shares Issued		Treasury						
	Shares	Amount	Shares	Amount	Paid-in Capital	Retained Earnings	Accumulated Other Comprehensive Income	Noncontrolling Interest	Total Equity
			(In Thousands)						
Balance at January 31, 2009, as reported	29,853	$ 299	20,471	$ (186,057)	$ 142,486	$ 282,332	$	$	$ 239,060
Effects of adoption of new accounting standard for noncontrolling interest								24,573	24,573
Balance at January 31, 2009, as adjusted	29,853	299	20,471	(186,057)	142,486	282,332		24,573	263,633
Net income						1,381		195	1,576
Stock based compensation					234				234
Treasury stock acquired			535	(5,543)					(5,543)
Unrealized investment gains, net of income taxes of $32							49		49
Stock options exercised and related tax effects			(148)	1,345	86				1,431
Balance at October 31, 2009	29,853	$ 299	20,858	$ (190,255)	$ 142,806	$ 283,713	$ 49	$ 24,768	$ 261,380

	REX Shareholders							
	Common Shares Issued		Treasury					
	Shares	Amount	Shares	Amount	Paid-in Capital	Retained Earnings	Noncontrolling Interest	Total Equity
			(In Thousands)					
Balance at January 31, 2008, as reported	29,813	$ 298	19,094	$ (170,693)	$ 141,357	$ 285,629	$	$ 256,591
Effects of adoption of new accounting standard for noncontrolling interest							27,729	27,729
Balance at January 31, 2008, as adjusted	29,813	298	19,094	(170,693)	141,357	285,629	27,729	284,320
Net income (loss)						2,082	(2,070)	12
Stock based compensation					967			967

Treasury stock acquired			1,332	(15,496)				(15,496)
Stock options exercised and related tax effects	40	1	(259)	2,344	(14)			2,331
Balance at October 31, 2008	29,853	$ 299	20,167	$ (183,845)	$ 142,310	$ 287,711	$ 25,659	$ 272,134

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

REX STORES CORPORATION AND SUBSIDIARIES
Consolidated Condensed Statements Of Cash Flows
Unaudited

	Nine Months Ended October 31,	
	2009	**2008**
	(In Thousands)	
Cash flows from operating activities:		
Net income including noncontrolling interest	$ 1,576	$ 12
Adjustments to reconcile net income to net cash provided by (used in) operating activities:		
Depreciation and amortization	6,489	2,551
Income from equity method investments	(1,144)	(2,966)
Income from synthetic fuel investments		(691)
Gain on disposal of real estate and property and equipment	(51)	(3,279)
Dividends received from equity method investees		400
Deferred income	(14,031)	(5,273)
Unrealized losses (gains) on derivative financial instruments	1,561	(481)
Other	248	2,439
Deferred income tax	(1,521)	798
Changes in assets and liabilities:		
Accounts receivable	(5,064)	(2,766)
Inventory	16,701	(6,621)
Other assets	5,070	1,635
Accounts payable, trade	(6,208)	(1,490)
Other liabilities	(3,320)	(10,547)
Net cash provided by (used in) operating activities	306	(26,279)
Cash flows from investing activities:		
Capital expenditures	(34,532)	(75,903)
Proceeds from sale of synthetic fuel investments		1,264
Proceeds from sale of real estate and property and equipment	1,002	6,379
Purchase of investments	(25)	
Restricted cash	(1,025)	(1,318)
Restricted investments	184	(22)
Net cash used in investing activities	(34,396)	(69,600)
Cash flows from financing activities:		
Payments of long-term debt and capital lease obligations	(12,080)	(4,425)
Proceeds from long-term debt	43,974	53,088
Stock options exercised	1,243	1,453
Treasury stock acquired	(5,543)	(15,496)
Realized losses on derivative financial instruments	(1,047)	(254)
Other		12
Net cash provided by financing activities	26,547	34,378
Net decrease in cash and cash equivalents	(7,543)	(61,501)
Cash and cash equivalents, beginning of period	91,991	127,716
Cash and cash equivalents, end of period	$ 84,448	$ 66,215
Non cash investing activities Accrued capital expenditures	$	$ 12,776

Non cash investing activities	Assets acquired by capital leases	$	$ 2,922

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

REX STORES CORPORATION AND SUBSIDIARIES
NOTES TO UNAUDITED CONSOLIDATED CONDENSED FINANCIAL STATEMENTS
October 31, 2009

Note 1. ***Consolidated Condensed Financial Statements***

The consolidated condensed financial statements included in this report have been prepared by the Company, without audit, pursuant to the rules and regulations of the Securities and Exchange Commission and include, in the opinion of management, all adjustments necessary to state fairly the information set forth therein. Any such adjustments were of a normal recurring nature. Certain information and footnote disclosures normally included in financial statements prepared in accordance with accounting principles generally accepted in the United States of America have been omitted pursuant to such rules and regulations, although the Company believes that the disclosures are adequate to make the information presented not misleading. Financial information as of January 31, 2009 included in these financial statements has been derived from the audited consolidated financial statements included in the Company s Annual Report on Form 10-K for the year ended January 31, 2009 (fiscal year 2008). It is suggested that these unaudited consolidated condensed financial statements be read in conjunction with the consolidated financial statements and the notes thereto included in the Company s Annual Report on Form 10-K for the year ended January 31, 2009. The results of operations for the interim periods are not necessarily indicative of the results to be expected for the year.

Basis of Consolidation The consolidated condensed financial statements in this report include the operating results and financial position of REX Stores Corporation and its wholly and majority owned subsidiaries. The Company includes the results of operations of Levelland Hockley County Ethanol, LLC (Levelland Hockley) and One Earth Energy, LLC (One Earth) in its Consolidated Condensed Statements of Operations on a delayed basis of one month.

Nature of Operations The Company operates in three reportable segments, alternative energy, real estate and retail. The Company substantially completed the exit of its retail business during the second quarter of fiscal year 2009, although it will continue to recognize revenue and expense associated with administering extended service policies.

Reclassifications Certain amounts have been reclassified to conform to current year presentation.

Note 2. ***Accounting Policies***

The interim consolidated condensed financial statements have been prepared in accordance with the accounting policies described in the notes to the consolidated financial statements included in the Company s 2008 Annual Report on Form 10-K. While management believes that the procedures followed in the preparation of interim financial information are reasonable, the accuracy of some estimated amounts is dependent upon facts that will exist or calculations that will be accomplished at fiscal year end. Examples of such estimates include management bonuses, restructuring accruals, the fair value of financial instruments, reserves for inventory obsolescence and lower of cost or market calculations and the provision for income taxes. Any adjustments pursuant to

such estimates during the quarter were of a normal recurring nature. Actual results could differ from those estimates.

Revenue Recognition

The Company recognizes sales from the production of ethanol and distillers grains when title transfers to customers, generally upon shipment from the ethanol plants. Shipping and handling charges to ethanol customers are included in net sales and revenue.

The Company includes income from its real estate leasing activities in net sales and revenue. The Company accounts for these leases as operating leases. Accordingly, minimum rental revenue is recognized on a straight-line basis over the term of the lease.

The Company recognized sales of retail products upon receipt by the customer. The Company sold retail product service contracts covering periods beyond the normal manufacturers warranty periods, usually with terms of coverage (including manufacturers warranty periods) of between 12 to 60 months. Contract revenues and sales commissions are deferred and amortized on a straight-line basis over the life of the contracts after the expiration of applicable manufacturers warranty periods. Amortization of deferred contract revenues is included in net sales and revenue while amortization of deferred sales commissions is included in selling, general and administrative expenses. The Company retains the obligation to perform warranty service and such costs are charged to operations as incurred.

Cost of Sales

Ethanol cost of sales includes depreciation, costs of raw materials, inbound freight charges, purchasing and receiving costs, inspection costs, shipping costs, other distribution expenses, warehousing costs, plant management, certain compensation costs, and general facility overhead charges.

Real estate cost of sales includes depreciation, real estate taxes, insurance, repairs and maintenance and other costs directly associated with operating the Company s portfolio of real property.

Retail cost of sales includes the cost of merchandise (net of vendor allowances), markdowns and inventory shrink, receiving, warehousing and freight charges to deliver merchandise to retail stores, service repair bills as well as cash discounts and rebates. The Company classifies purchasing costs as selling, general and administrative expenses.

Vendor Allowances and Advertising Costs

Vendors often funded, up front, certain advertising costs and exposure to general changes in pricing to customers due to technological change. Allowances were deferred as received from vendors and recognized into income as an offset to the cost of merchandise sold when the related product was sold or expense incurred. All such allowances were used in the wind down of the Company s retail business during fiscal year 2009. Advertising costs were expensed as incurred.

Selling, General and Administrative Expenses

The Company includes non-production related costs from its alternative energy segment such as certain payroll and related costs, professional fees and other general expenses in selling, general and administrative expenses.

The Company includes costs not directly related to operating its portfolio of real property from its real estate segment such as certain payroll and related costs, professional fees and other general expenses in selling, general and administrative expenses.

The Company included store expenses from its retail segment (such as payroll and occupancy costs), as well as advertising, purchasing, depreciation, insurance and overhead costs in selling, general and administrative expenses.

Interest Cost

Interest expense of $3,250,000 for the nine months ended October 31, 2009 is net of approximately $1,651,000 of interest capitalized. Interest expense of $2,074,000 for the nine months ended October 31, 2008 is net of approximately $736,000 of interest capitalized. Cash paid for interest for the nine months ended October 31, 2009 and 2008 was approximately $1,620,000 and $1,592,000, respectively.

Financial Instruments

Forward grain purchase and ethanol and distiller grain sale contracts are accounted for as normal purchases and normal sales as permitted by the accounting standards because these arrangements are for purchases of grain that will be delivered in quantities expected to be used by the Company and sales of ethanol and distiller grain quantities expected to be produced by the Company over a reasonable period of time in the normal course of business.

The Company uses derivative financial instruments to manage its balance of fixed and variable rate debt. The Company does not hold or issue derivative financial instruments for trading or speculative purposes. Interest rate swap agreements involve the exchange of fixed and variable rate interest payments and do not represent an actual exchange of the notional amounts between the parties. The swap agreements were not designated for hedge accounting pursuant to the accounting standards. The interest rate swaps are recorded at their fair values and the changes in fair values are recorded as gain or loss on derivative financial instruments in the Consolidated Condensed Statements of Operations.

Income Taxes

The Company applies an effective tax rate to interim periods that is consistent with the Company s estimated annual tax rate. The Company provides for deferred tax liabilities and assets for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax basis and operating loss and tax credit carryforwards. The Company provides for a valuation allowance if, based on the weight of

available evidence, it is more likely than not that some or all of the deferred tax assets will not be realized. The Company paid no income taxes in the first nine months of fiscal year 2009 and approximately $0.7 million for the nine months ended October 31, 2008.

As of October 31, 2009, total unrecognized tax benefits were $4,171,000 and accrued penalties and interest were $291,000. If the Company were to prevail on all unrecognized tax benefits recorded, approximately $165,000 of the reserve would benefit the effective tax rate. In addition, the impact of penalties and interest would also benefit the effective tax rate. Interest and penalties associated with unrecognized tax benefits are recorded within income tax expense. On a quarterly and annual basis, the Company accrues for the effects of open uncertain tax positions and the related potential penalties and interest.

Restricted Cash

The Company has approximately $1.0 million on deposit at October 31, 2009 in a restricted bank account as collateral for a letter of credit on behalf of Levelland Hockley to secure grain purchasing. The cash is carried at cost plus accrued interest.

Inventories

Inventories are carried at the lower of cost or market on a first-in, first-out (FIFO) basis. Alternative energy segment inventory includes direct production costs and certain overhead costs such as depreciation, property taxes and utilities related to producing ethanol and related by-products. Reserves are established for net realizable value based upon commodity prices. The market value of inventory is often dependent upon changes in commodity prices. The components of inventory at October 31, 2009, January 31, 2009 and October 31, 2008 are as follows (amounts in thousands):

	October 31, 2009	January 31, 2009	October 31, 2008
Retail merchandise, net	$ 290	$ 22,318	$ 54,730
Ethanol related:			
Ethanol and other finished goods, net	2,082	487	453
Work in process, net	1,535	341	533
Grain and other raw materials	3,766	1,228	838
Total	$ 7,673	$ 24,374	$ 56,554

Property and Equipment

Property and equipment is recorded at cost. Assets under capital leases are capitalized at the lower of the net present value of minimum lease payments or the fair market value of the leased asset. Depreciation is computed using the straight-line method. Estimated useful lives are 15 to 40 years for buildings and improvements, and 3 to 20 years for fixtures and equipment.

In accordance with the accounting standards, the carrying value of long-lived assets is assessed for recoverability by management when changes in circumstances indicate that the carrying amount may not be recoverable based on appraisals or an analysis of undiscounted future expected

cash flows from the use and ultimate disposition of the asset.

Investments

The Company periodically evaluates its investments for impairment due to declines in market value considered to be other than temporary. Such impairment evaluations include, in addition to persistent, declining market prices, general economic and company-specific evaluations. If the Company determines that a decline in market value is other than temporary, then a charge to earnings is recorded in the accompanying Consolidated Condensed Statements of Operations for all or a portion of the unrealized loss and a new cost basis in the investment is established.

Accounting Changes

On September 15, 2009, the Financial Accounting Standards Board (FASB) Accounting Standards Codification (the Codification) became the single source of authoritative generally accepted accounting principles in the United States of America. The Codification changed the referencing of financial standards but did not change or alter existing U.S. GAAP. The Codification became effective for the Company in the third quarter of fiscal year 2009.

During December 2007, the FASB issued new accounting and disclosure guidance related to noncontrolling interests in subsidiaries. This guidance establishes accounting and reporting standards for the noncontrolling interest in a subsidiary and for the deconsolidation of a subsidiary. The Company adopted the provisions of this guidance as of the beginning of its 2009 fiscal year. This guidance is to be applied prospectively as of the beginning of 2009 except for the presentation and disclosure requirements which are to be applied retrospectively. The consolidated condensed financial statements conform to the presentation required under this guidance. Other than the change in presentation of noncontrolling interests, the adoption had no impact on the Company s results of operations or financial position.

In April 2009, the FASB issued new accounting standards that require disclosures about the fair value of financial instruments in financial statements for interim and annual reporting periods of publicly traded companies. These accounting standards are effective for interim and annual reporting periods ending after June 15, 2009. The adoption of these accounting standards did not have a material impact on the Company s condensed consolidated financial statements.

In May 2009, the FASB issued a new accounting standard which clarifies that management must evaluate, as of each reporting period, events or transactions that occur after the balance sheet date through the date that the financial statements are issued or are available to be issued. This accounting standard is effective for interim and annual periods ending after June 15, 2009. The Company adopted this accounting standard in the second quarter of fiscal year 2009. The adoption of this accounting standard did not have a material impact on the Company s consolidated financial statements but does require the Company to disclose the date through which management had evaluated subsequent events.

Recently Issued Accounting Standards

In June 2009, the FASB issued a new accounting standard addressing accounting for transfers of financial assets which amends the derecognition guidance in prior accounting standards. This

accounting standard is effective for financial asset transfers occurring in fiscal years beginning after November 15, 2009, and interim periods within those fiscal years. The Company has not determined the impact on its consolidated financial statements of adopting this standard.

In June 2009, the FASB issued a new accounting standard which amends the consolidation guidance that applies to variable interest entities. This accounting standard is effective for fiscal years beginning after November 15, 2009, and interim periods within those fiscal years. The Company has not determined the impact on its consolidated financial statements of adopting this standard.

Note 3. *Comprehensive Income*

Comprehensive income includes net income and unrealized gains on securities classified as available for sale (net of the related tax effects), and are reported separately in shareholders equity. The components of comprehensive income are as follows (amounts in thousands):

	Three Months Ended October 31,		Nine Months Ended October 31,	
	2009	2008	2009	2008
Net income (loss) attributable to REX common shareholders	$ 2,273	$ (650)	$ 1,381	$ 2,082
Unrealized holding gains on available for sale securities, net	12		49	
Total comprehensive income (loss)	$ 2,285	$ (650)	$ 1,430	$ 2,082

Note 4. *Sale and Leaseback Transaction and Other Leases*

On April 30, 2007, the Company completed a transaction for the sale of 86 of its former store locations to KLAC REX, LLC (Klac) for $74.5 million in cash, before selling expenses. The Company also entered into leases to leaseback 40 of the properties from Klac for initial lease terms expiring January 31, 2010. All of the leases with Klac have been terminated as of October 31, 2009.

This transaction resulted in a gain (realized and deferred) of $14.8 million. Of this gain, $3.9 million and $1.1 million was recognized in the first nine months of fiscal years 2009 and 2008, respectively. As a result of the wind down of the Company s retail business, the term over which the deferred gain was being amortized has been shortened and is based upon the Company abandoning, or otherwise ceasing use of the leased property. See Note 13 for a discussion of restructuring related charges. The leases have been accounted for as operating leases. The following table summarizes the pre-tax gains recognized during the third quarter and first nine months of fiscal years 2009 and 2008 (amounts in thousands):

	Three Months Ended October 31,		Nine Months Ended October 31,	
Classification of Gain	2009	2008	2009	2008
Discontinued Operations	$	$ 323	$ 3,933	$ 1,068

At October 31, 2009, the Company has lease or sub-lease agreements, as landlord, for all or portions of eight properties. The Company owns seven of these properties and is the tenant/sub landlord for one of the properties. All of the leases are accounted for as operating leases. The following table is a summary of future minimum rentals on such leases (amounts in thousands):

Years Ended January 31	Minimum Rentals
Remainder of January 31, 2010	$ 101
2011	923
2012	855
2013	817
2014	717
Thereafter	845
Total	$ 4,258

Levelland Hockley leases certain real estate and equipment for its ethanol plant. The leases have been classified as capital leases. The following is a summary, at October 31, 2009, of the aggregate minimum future annual rental commitments for all capital leases (amounts in thousands):

Years Ended January 31	Minimum Rentals
Remainder of January 31, 2010	$ 142
2011	569
2012	569
2013	521
2014	393
Total minimum lease payments	2,194
Less amount representing interest	205
Present value of minimum capital lease payments	1,989
Less current maturities of capital lease obligations	467
Long term capital lease obligations	$ 1,522

Note 5. ***Fair Value***

Effective February 1, 2008, the Company adopted new accounting standards for fair value measurements, which requires an entity to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value. The framework for measuring fair value uses three levels of inputs that may be used to measure fair values which are provided below. The Company carries cash equivalents and derivative assets and liabilities at fair value.

Level 1 Quoted prices in active markets for identical assets or liabilities. Level 1 assets and liabilities include debt and equity securities and derivative contracts that are traded in an active

exchange market, as well as certain U.S. Treasury securities that are highly liquid and are actively traded in over-the-counter markets.

Level 2 Observable inputs other than Level 1 prices such as quoted prices for similar assets or liabilities; quoted prices in markets that are not active; or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities. Level 2 assets and liabilities include derivative contracts whose value is determined using a pricing model with inputs that are observable in the market or can be derived principally or corroborated by observable market data.

Level 3 Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities. Level 3 assets and liabilities include financial instruments whose value is determined using pricing models, discounted cash flow methods, or similar techniques, as well as instruments for which the determination of fair value requires significant management judgment or estimation. Unobservable inputs shall be developed based on the best information available, which may include the Company s own data.

The fair values of derivative assets and liabilities traded in the over-the-counter market are determined using quantitative models that require the use of multiple market inputs including interest rates, prices and indices to generate pricing and volatility factors, which are used to value the position. The predominance of market inputs are actively quoted and can be validated through external sources, including brokers, market transactions and third-party pricing services. Estimation risk is greater for derivative asset and liability positions that are either option-based or have longer maturity dates where observable market inputs are less readily available or are unobservable, in which case interest rate, price or index scenarios are extrapolated in order to determine the fair value. The fair values of derivative assets and liabilities include adjustments for market liquidity, counterparty credit quality, the Company s own credit standing and other specific factors, where appropriate. To ensure the prudent application of estimates and management judgment in determining the fair value of derivative assets and liabilities, various processes and controls have been adopted, which include: model validation that requires a review and approval for pricing, financial statement fair value determination and risk quantification; periodic review and substantiation of profit and loss reporting for all derivative instruments. There was no impact on the beginning balance of retained earnings as a result of adopting the new accounting standards because the Company held no financial instruments in which a gain or loss at inception was deferred. Financial assets and liabilities measured at fair value on a recurring basis are summarized below as of October 31, 2009 (amounts in thousands):

	Level 1	Level 2	Level 3	Fair Value
Cash equivalents	$ 75,753	$	$	$ 75,753
Restricted investments	1,357			1,357
Debt securities			1,014	1,014
Total assets	$ 77,110	$	$ 1,014	$ 78,124
Derivative liabilities	$	$ 6,542	$	$ 6,542
Total liabilities	$	$ 6,542	$	$ 6,542

Note 6. Property and Equipment

The components of property and equipment at October 31, 2009, January 31, 2009 and October 31, 2008 are as follows (amounts in thousands):

	October 31, 2009	January 31, 2009	October 31, 2008
Land and improvements	$ 29,126	$ 24,073	$ 15,888
Buildings and improvements	61,500	40,987	42,669
Machinery, equipment and fixtures	185,748	70,408	71,348
Leasehold improvements	1,005	3,396	5,141
Construction in progress	160	121,333	113,201
	277,539	260,197	248,247
Less: accumulated depreciation	(24,386)	(24,743)	(26,280)
	$ 253,153	$ 235,454	$ 221,967

Note 7. ***Other Assets***

The components of other assets at October 31, 2009, January 31, 2009 and October 31, 2008 are as follows (amounts in thousands):

	October 31, 2009	January 31, 2009	October 31, 2008
Prepaid loan fees	$ 3,864	$ 4,515	$ 4,761
Prepaid commissions	5,092	7,563	7,896
Other	881	336	296
Total	$ 9,837	$ 12,414	$ 12,953

Note 8. ***Long Term Debt and Interest Rate Swaps***

During the first nine months of fiscal year 2009, the Company completed the payoff of 14 mortgage loans resulting in approximately $8.0 million of debt being paid off prior to the scheduled maturities of the loans. The Company recognized approximately $0.1 million of early debt termination costs in connection with the early payoff of these loans. The fair value of the Company s long term debt was approximately $141.6 million at October 31, 2009. The Company utilizes a present value technique using its estimate of current market rates to estimate the fair value of its long term debt.

Levelland Hockley Subsidiary Level Debt

During the second quarter of fiscal year 2008, pursuant to the terms of the construction loan agreement, Levelland Hockley converted the construction loan into a permanent term loan. Beginning with the first monthly payment on June 30, 2008, payments are due in 59 equal monthly

payments of principal plus accrued interest with the principal portion calculated based on a 120 month amortization schedule. One final installment will be required on the maturity date (June 30, 2013) for the remaining unpaid principal balance with accrued interest. The term loan bears interest at a floating rate of 400 basis points above LIBOR (4.3% at October 31, 2009), adjusted monthly through the maturity date. Borrowings are secured by all of the assets of Levelland Hockley. This debt is recourse only to Levelland Hockley and not to REX Stores Corporation or any of its other subsidiaries. As of October 31, 2009, approximately $38.2 million was outstanding on the term loan. Levelland Hockley is also subject to certain financial covenants under the loan agreement, including required levels of EBITDAR, debt service coverage ratio requirements, net worth requirements and other common covenants. On September 4, 2009, Levelland Hockley amended its loan agreement with GE to adjust certain covenants and to waive defaults occurring prior to July 1, 2009. Levelland Hockley is in compliance with all debt covenants as of October 31, 2009.

Levelland Hockley entered into a forward interest rate swap with an initial notional amount of $43.7 million with Merrill Lynch Capital during fiscal year 2007. The swap effectively fixed the variable interest rate of the term loan subsequent to the plant completion date at 7.89%. The swap settlements commenced on May 31, 2008 and terminate on April 30, 2010. At October 31, 2009, the Company has recorded a liability of $0.8 million related to the fair value of the swap. The change in fair value was recorded in the Consolidated Condensed Statements of Operations.

One Earth Energy Subsidiary Level Debt

In September 2007, One Earth entered into a $111,000,000 financing agreement consisting of a construction loan agreement for $100,000,000 together with a $10,000,000 revolving loan and a $1,000,000 letter of credit with First National Bank of Omaha. The construction loan was converted into a term loan on July 31, 2009 as all of the requirements, for such conversion, of the construction and term loan agreement were fulfilled. The term loan bears interest at variable interest rates ranging from LIBOR plus 300 basis points to LIBOR plus 310 basis points (3.3% -3.4%) at October 31, 2009. Beginning with the first quarterly payment on October 8, 2009, payments are due in 20 quarterly payments of principal plus accrued interest with the principal portion calculated based on a 120 month amortization schedule. One final installment will be required on the maturity date (July 31, 2014) for the remaining unpaid principal balance with accrued interest.

Borrowings are secured by all property of One Earth. This debt is recourse only to One Earth and not to REX Stores Corporation or any of its other subsidiaries. During the first nine months of fiscal year 2009, One Earth borrowed $44.0 million on this loan. As of September 30, 2009, approximately $100.0 million was outstanding on the term loan. One Earth is also subject to certain financial covenants under the loan agreement, including required levels of EBITDA, working capital, debt service coverage ratio requirements, net worth requirements and other common covenants. One Earth was in compliance with all applicable covenants at October 31, 2009. One Earth has paid approximately $1.4 million in financing costs. These costs are recorded as prepaid loan fees and are being amortized ratably over the term of the loan.

One Earth entered into two forward interest rate swaps in the notional amounts of $50.0 million and $25.0 million with the Bank. The swap settlements commenced July 31, 2009; the $50.0 million swap terminates on July 8, 2014 and the $25.0 million swap terminates on July 31, 2011. The $50.0 million swap effectively fixed a portion of the variable interest rate of the term loan subsequent

to the plant completion date at 7.9% while the $25.0 million swap effectively fixed the rate at 5.49%. At October 31, 2009, the Company recorded a liability of $5.7 million related to the fair value of the swaps. The change in fair value was recorded in the Consolidated Condensed Statements of Operations.

Note 9. Financial Instruments

The Company uses interest rate swaps to manage its interest rate exposure at Levelland Hockley and One Earth by fixing the interest rate on a portion of the variable rate debt these entities have. The Company does not engage in trading activities involving derivative contracts for which a lack of marketplace quotations would necessitate the use of fair value estimation techniques. As of October 31, 2009, the notional value of the Levelland Hockley and One Earth interest rate swaps were $37.5 million and $75.0 million, respectively. At October 31, 2009, the Company has recorded a liability of $6.5 million related to the fair value of the swaps. The change in fair value was recorded in the Consolidated Condensed Statements of Operations. The notional amounts and fair values of derivatives, all of which are not designated as cash flow hedges at October 31, 2009 are summarized in the table below (amounts in thousands):

	Notional Amount	Fair Value Liability
Interest rate swaps	$ 112,518	$ 6,542

As the interest rate swaps are not designated as cash flow hedges, the unrealized gain and loss on the derivatives is reported in current earnings. The Company reported losses of $899,000 and $947,000 in the third quarter of fiscal years 2009 and 2008, respectively. The Company reported losses of $1,561,000 and gains of $481,000 in the first nine months of fiscal years 2009 and 2008, respectively.

In the normal course of its ethanol business, the Company enters into forward pricing agreements for the purchase of grain and for the sale of ethanol and distillers grains for delivery in future periods. The Company accounts for these forward pricing arrangements as normal purchases and normal sales pursuant to accounting standards.

Levelland Hockley has forward purchase contracts for 558,000 bushels of sorghum, the principal raw material for its ethanol plant. Levelland Hockley expects to take delivery of the sorghum through December 2009. The unrealized gain of such contracts was approximately $39,000 at September 30, 2009.

One Earth has forward purchase contracts for 4,945,000 bushels of corn, the principal raw material for its ethanol plant. One Earth expects to take delivery of the corn through February 2010. The unrealized gain of such contracts was approximately $644,000 at September 30, 2009.

Levelland Hockley has sales commitments for 53,600 tons of distiller grains. Levelland Hockley expects to deliver the distiller grains through December 2009. The unrealized loss of such contracts was approximately $118,000 at September 30, 2009.

One Earth has sales commitments for 19.9 million gallons of ethanol and 54,400 tons of distiller grains. One Earth expects to deliver the ethanol and distiller grains through March 2010. The unrealized loss of such contracts was approximately $0.5 million at September 30, 2009.

Note 10. ***Stock Option Plans***

The Company has stock-based compensation plans under which stock options have been granted to directors, officers and key employees at the market price on the date of the grant. No options have been granted since fiscal year 2004.

The total intrinsic value of options exercised during the nine months ended October 31, 2009 and 2008 was approximately $0.5 million and $2.2 million, respectively, resulting in tax deductions of approximately $0.2 million and $0.9 million, respectively. The following table summarizes options exercised and canceled or expired during the nine months ended October 31, 2009:

	Shares	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term	Aggregate Intrinsic Value (in thousands)
Outstanding at January 31, 2009	2,715,001	$ 9.63		
Exercised	(148,050)	$ 8.39		
Forfeited	(69,280)	$ 12.24		
Outstanding and exercisable at October 31, 2009	2,497,671	$ 9.63	2.0	$ 7,492

At October 31, 2009, there was no unrecognized compensation cost related to nonvested stock options.

Note 11. ***Income Per Share from Continuing Operations***

The following table reconciles the computation of basic and diluted net income per share from continuing operations for each period presented (in thousands, except per share amounts):

	Three Months Ended October 31, 2009			Nine Months Ended October 31, 2009		
	Income	Shares	Per Share	Income	Shares	Per Share
Basic income per share from continuing operations attributable to REX common shareholders	$ 2,295	9,161	$ 0.25	$ 2,127	9,229	$ 0.23
Effect of stock options		303			249	
Diluted income per share from continuing operations attributable to REX common shareholders	$ 2,295	9,464	$ 0.24	$ 2,127	9,478	$ 0.23

	Nine Months Ended October 31, 2008		
	Income	Shares	Per Share
Basic income per share from continuing operations attributable to REX common shareholders	$ 1,995	10,389	$ 0.19
Effect of stock options		640	
Diluted income per share from continuing operations attributable to REX common shareholders	$ 1,995	11,029	$ 0.18

As there was a loss from continuing operations for the three months ended October 31, 2008, basic loss per share from continuing operations equals diluted loss per share from continuing operations. For the three months ended October 31, 2009, a total of 692,323 shares, and for the nine months ended October 31, 2009 and 2008, a total of 692,323 shares and 286,536 shares, respectively, subject to outstanding options were not included in the common equivalent shares outstanding calculation as the effect from these shares is antidilutive.

Note 12. ***Investments***

The following tables summarize investments at October 31, 2009, January 31, 2009 and October 31, 2008 (amounts in thousands):

Debt Securities October 31, 2009

Investment	Coupon Rate	Maturity	Classification	Fair Market Value	Initial Investment
Patriot Renewable Fuels, LLC Convertible Note	16.00%	11/25/2011	Available for Sale	$ 1,014	$ 933

Debt Securities January 31, 2009

Investment	Coupon Rate	Maturity	Classification	Fair Market Value	Initial Investment
Patriot Renewable Fuels, LLC Convertible Note	16.00%	11/25/2011	Available for Sale	$ 933	$ 933

Debt Securities October 31, 2008

Investment	**Coupon Rate**	**Maturity**	**Classification**	**Fair Market Value**	**Initial Investment**
United States Treasury Bill	1.55%	12/11/2008	Held to Maturity	$ 1,571	$ 1,571

Unrealized holding gains were $81,000 at October 31, 2009. There were no material realized or unrealized holding gains at January 31, 2009 or October 31, 2008.

The Company has approximately $742,000 at October 31, 2009 and approximately $933,000 at January 31, 2009 and October 31, 2008 on deposit with the Florida Department of Financial Services to secure its obligation to fulfill future obligations related to extended warranty contracts sold in the state of Florida. The deposits earned 2.5%, 2.3% and 3.1% at October 31, 2009, January 31, 2009 and October 31, 2008, respectively. In addition to the deposit with the Florida Department of Financial Services, the Company has $1,357,000 at October 31, 2009 and $1,351,000 at January 31, 2009, invested in a money market mutual fund to satisfy Florida Department of Financial Services regulations. This investment earned 0.01% at October 31, 2009 and 1.3% at January 31, 2009.

The following table summarizes equity method investments at October 31, 2009, January 31, 2009 and October 31, 2008 (amounts in thousands):

Equity Method Investments October 31, 2009

Entity	**Ownership Percentage**	**Carrying Amount**	**Initial Investment**
Big River Resources, LLC	10%	$ 24,563	$ 20,025
Patriot Renewable Fuels, LLC	23%	15,362	16,000
Total Equity Method Investments		$ 39,925	$ 36,025

Equity Method Investments January 31, 2009

Entity	**Ownership Percentage**	**Carrying Amount**	**Initial Investment**
Big River Resources, LLC	10%	$ 23,850	$ 20,000
Patriot Renewable Fuels, LLC	23%	15,011	16,000
Total Equity Method Investments		$ 38,861	$ 36,000

Equity Method Investments October 31, 2008

Entity	Ownership Percentage	Carrying Amount	Initial Investment
Big River Resources, LLC	10%	$ 25,357	$ 20,000
Patriot Renewable Fuels, LLC	23%	16,192	16,000
Total Equity Method Investments		$ 41,549	$ 36,000

During the third quarter of fiscal years 2009 and 2008, the Company recorded income of $514,000 and $1,598,000, respectively as its share of earnings from Big River. During the first nine months of fiscal years 2009 and 2008, the Company recorded income of $688,000 and $3,405,000, respectively as its share of earnings from Big River.

During the third quarter of fiscal years 2009 and 2008, the Company recorded income of $707,000 and a loss of $554,000, respectively as its share of earnings from Patriot. During the first nine months of fiscal years 2009 and 2008, the Company recorded income of $456,000 and a loss of $439,000, respectively as its share of earnings or loss from Patriot. Undistributed earnings of equity method investees totaled approximately $4.5 million at October 31, 2009, $3.8 million at January 31, 2009 and $5.0 million at October 31, 2008.

Note 13. ***Restructuring and Other***

During the fourth quarter of fiscal year 2008, the Company entered into an agreement with Appliance Direct pursuant to which (i) the Company agreed to sell certain appliance inventory, furniture, fixtures and equipment at the store locations to be taken over by Appliance Direct and (ii) subsidiaries of Appliance Direct leased 37 retail store locations owned by the Company. The Company agreed to pay Appliance Direct, as of the implementation date defined in the agreement, an amount equal to the adjusted book value liability of the Company s customer extended service plans for certain appliance inventory previously sold at locations that Appliance Direct takes over from the Company (the ESP Credit).

During the fourth quarter of fiscal year 2008, the Company recorded a restructuring charge of approximately $4.2 million related to (i) a workforce reduction of a majority of employees located at its corporate headquarters, retail stores and distribution facilities and (ii) certain costs associated with the transition of the Company s retail business to Appliance Direct.

On July 31, 2009, the Company entered into a Third Amendment to Agreement and a Second Global Amendment to Multiple Leases (together, the Amendments) with Appliance Direct. The Amendments (i) eliminated the right of Appliance Direct to purchase stores it leased from the Company (ii) eliminated the right of Appliance Direct to terminate certain leases in the future and (iii) eliminated the obligation of Appliance Direct to lease 22 properties from the Company. The terms of the 15 leases and one sub-lease under which the Company leased property to Appliance Direct remained in full force except as modified by the Amendments. As a result of these

Amendments, the Company reduced the accruals for employee severance and bonus costs by approximately $0.7 million, for investment banker fees by approximately $0.3 million and for the ESP Credit by approximately $0.3 million during the second quarter of fiscal year 2009.

On September 30, 2009, the Company entered into a letter agreement with Appliance Direct pursuant to which (i) Appliance Direct agreed to vacate all properties leased from the Company and turn over possession of the leased premises to the Company and (ii) the Company and Appliance Direct agreed to release and discharge each other from all claims or causes of action whatsoever.

The Company substantially completed its exit of the retail business as of July 31, 2009. During the first nine months of fiscal year 2009, the Company recorded additional restructuring charges of approximately $1.7 million. The following is a summary of restructuring charges and payments for the nine months ended October 31, 2009 (in thousands):

	Employee Severance and Bonus Costs	Lease Termination Costs	Investment Banker Fees	ESP Credit	Total Restructuring Accrual
Balance, January 31, 2009	$ 2,839	$	$ 834	$ 498	$ 4,171
Restructuring charges		1,460			1,460
Payment of restructuring liabilities	(436)	(409)			(845)
Balance, April 30, 2009	2,403	1,051	834	498	4,786
Restructuring charges	28	1,492			1,520
Reversal of restructuring charges	(706)		(325)	(287)	(1,318)
Payment of restructuring liabilities	(838)	(975)		(211)	(2,024)
Balance, July 31, 2009	887	1,568	509		2,964
Restructuring charges	57				57
Reversal of restructuring charges		(41)			(41)
Payment of restructuring liabilities	(422)	(967)	(509)		(1,898)
Balance, October 31, 2009	$ 522	$ 560	$	$	$ 1,082

Note 14. ***Income Taxes***

The effective tax rate on consolidated pre-tax loss or income from continuing operations was 38.4% for the nine months ended October 31, 2009, 30.5% for the year ended January 31, 2009 and 112.0% for the nine months ended October 31, 2008. An adjustment for recognizing uncertain tax positions of 3.2% is reflected in the effective rate for the nine months ended October 31, 2009 compared to a benefit of 35.0% for the nine months ended October 31, 2008. The provision for state taxes is approximately 3.9% for the nine months ended October 31, 2009 and 5.0% for the nine months ended October 31, 2008. The effective tax rate was decreased by approximately 1.6% in the first nine months of fiscal year 2009 from the income of pass-through entities (Levelland Hockley and One Earth) that is allocated to non-controlling interests. The effective tax was increased by

approximately 138.8% in the first nine months of fiscal year 2008 from the loss of pass-through entities that is allocated to non-controlling interests.

The Company files a U.S. federal income tax return and income tax returns in various states. In general, the Company is no longer subject to U.S. federal, state or local income tax examinations by tax authorities for years ended January 31, 2006 and prior. A reconciliation of the beginning and ending amount of unrecognized tax benefits, including interest and penalties, is as follows (amounts in thousands):

Unrecognized tax benefits, February 1, 2009	$ 4,160
Changes for tax positions for prior years, net	302
Changes for current year tax positions	
Unrecognized tax benefits, October 31, 2009	$ 4,462

Note 15. ***Discontinued Operations***

During the first nine months of fiscal year 2009, the Company closed 53 retail stores in which the Company vacated the market or will not have a further continuing involvement with the related property. These stores and certain other retail stores closed in previous periods were classified as discontinued operations for all periods presented. Below is a table reflecting certain items of the Consolidated Condensed Statements of Operations that were reclassified as discontinued operations for the periods indicated:

	Three Months Ended October 31,		Nine Months Ended October 31,	
	2009	**2008**	**2009**	**2008**
	(In Thousands)			
Net sales and revenue	$	$ 25,515	$ 14,398	$ 80,357
Cost of sales	2	19,595	13,225	60,310
Loss before income taxes	(32)	(556)	(1,317)	(173)
Benefit for income taxes	10	212	444	70
Gain on disposal			194	305
Provision for income taxes			(67)	(115)
Net (loss) income	$ (22)	$ (344)	$ (746)	$ 87

Note 16. ***Commitments and Contingencies***

During the second quarter of fiscal year 2009, Levelland Hockley entered into an agreement to construct certain improvements at its water treatment facility. The total cost of the agreement is expected to be approximately $600,000, of which $235,000 has been paid as of October 31, 2009.

The Company is involved in various legal matters arising in the normal course of business. The Company does not expect the results of these proceedings to have a material adverse effect on its consolidated financial position, liquidity or results of operations.

Note 17. *Segment Reporting*

Beginning in the second quarter of fiscal year 2009, the Company has realigned its reportable business segments to be consistent with changes to its management structure and reporting. The Company now has three segments: alternative energy, real estate and retail. The real estate segment was formerly included in the retail segment and prior year amounts have been reclassified to conform to the current year segment reporting presentation. For stores and warehouses closed for which the Company has a retained interest in the related real estate, operations are presented in the real estate segment when retail operations cease.

The Company evaluates the performance of each reportable segment based on segment profit. Segment profit excludes income taxes, indirect interest expense, discontinued operations, indirect interest income and certain other items that are included in net income determined in accordance with accounting principles generally accepted in the United States of America. Segment profit includes realized and unrealized gains and losses on derivative financial instruments. The following tables summarize segment business activities in the periods presented (amounts in thousands):

	Three Months Ended October 31,		Nine Months Ended October 31,	
	2009	2008	2009	2008
Net sales and revenue:				
Alternative energy	$ 61,368	$ 22,444	$ 92,296	$ 48,468
Real estate	341	83	827	270
Retail	2,707	16,644	18,057	50,904
Total net sales and revenues	$ 64,416	$ 39,171	$ 111,180	$ 99,642
Segment gross profit (loss):				
Alternative energy	$ 5,790	$ (2,443)	$ 6,740	$ (1,753)
Real estate	(117)	77	(351)	252
Retail	2,187	6,038	8,383	17,807
Total gross profit	$ 7,860	$ 3,672	$ 14,772	$ 16,306

	Three Months Ended October 31, 2009	Three Months Ended October 31, 2008	Nine Months Ended October 31, 2009	Nine Months Ended October 31, 2008
Segment profit (loss):				
Alternative energy	$ 4,569	$ (4,957)	$ 2,222	$ (3,527)
Real estate	(187)	25	(462)	95
Retail	843	2,936	3,142	3,331
Corporate expense	(430)	(484)	(1,046)	(1,113)
Interest expense	(60)	(111)	(314)	(332)
Investment income	82	345	230	1,481
Income from synthetic fuel investments		21		691
Income (loss) from continuing operations before income taxes	$ 4,817	$ (2,225)	$ 3,772	$ 626

	October 31, 2009	January 31, 2009	October 31, 2008
Assets:			
Alternative energy	$ 289,662	$ 249,422	$ 233,941
Real estate	36,416	35,523	35,969
Retail	7,863	44,914	76,114
Corporate	114,458	121,429	97,085
Total assets	$ 448,399	$ 451,288	$ 443,109

	Three Months Ended October 31,		Nine Months Ended October 31,	
	2009	2008	2009	2008
Sales of products alternative energy segment:				
Ethanol	84%	84%	81%	83%
Dried distiller grains	12%	9%	12%	10%
Wet distiller grains	4%	7%	7%	7%
Total	100%	100%	100%	100%
Sales of services real estate segment:				
Lease revenue	100%	100%	100%	100%
Sales of products retail segment:				
Televisions	%	45%	32%	45%
Appliances	%	26%	28%	28%
Audio	%	6%	2%	5%
Video	%	2%	1%	2%
Other	%	2%	3%	1%
Total	%	81%	66%	81%
Sales of services retail segment:				
Extended service contracts	100%	19%	34%	19%
Total retail segment sales	100%	100%	100%	100%

Certain corporate costs and expenses, including information technology, employee benefits and other shared services are allocated to the business segments. The allocations are generally amounts agreed upon by management, which may differ from amounts that would be incurred if such services were purchased separately by the business segment. Corporate assets are primarily cash and equivalents and deferred income tax benefits.

Cash, except for cash held by Levelland Hockley and One Earth, is considered to be fungible and available for both corporate and segment use dependent on liquidity requirements. The Company expects cash of approximately $8.7 million held by Levelland Hockley and One Earth to be used to provide working capital for those entities.

Note 18. ***Subsequent Events***

On December 1, 2009, the Company s Board of Directors increased the authorized number of shares that can be repurchased by 500,000 shares.

The company evaluated all subsequent event activity through December 3, 2009 (the issue date of this Quarterly Report on Form 10-Q) and concluded that no additional subsequent events have occurred that would require recognition in the financial statements or disclosure in the notes to the financial statements.

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

Historically, we were a specialty retailer in the consumer electronics/appliance industry serving small to medium-sized towns and communities. In addition, we have been an investor in various alternative energy entities beginning with synthetic fuel partnerships in 1998 and later ethanol production facilities beginning in 2006.

In fiscal year 2007, we began to evaluate strategic alternatives for our retail segment with a focus on closing unprofitable or marginally profitable retail stores and monetizing our retail-related real estate assets. Reflecting this focus, we commenced an evaluation of a broad range of alternatives intended to derive value from the remaining retail operations and our real estate portfolio. Following a comprehensive analysis, late in fiscal year 2008 we leased 37 owned store locations to Appliance Direct. We also provided Appliance Direct an option to purchase all of the properties being leased from REX during the first two years of the lease term. Appliance Direct also reached an agreement to lease or sub-lease two of our leased locations.

On July 31, 2009, we entered into a Third Amendment to Agreement and a Second Global Amendment to Multiple Leases (together, the Amendments) with Appliance Direct. The Amendments (i) eliminated the right of Appliance Direct to purchase stores it leased from us, (ii) eliminated the right of Appliance Direct to terminate certain leases in the future and (iii) eliminated the obligation of Appliance Direct to lease 22 properties from us. The terms of the 15 leases and one sub-lease under which we leased property to Appliance Direct remained in full force except as modified by the Amendments. We substantially completed our exit of the retail business as of July 31, 2009.

On September 30, 2009, we entered into a letter agreement with Appliance Direct pursuant to which (i) Appliance Direct agreed to vacate all properties leased from us and turn over possession of the leased premises to us and (ii) we and Appliance Direct agreed to release and discharge each other from all claims or causes of action whatsoever. We are marketing these vacant properties to lease or sell.

We currently have invested approximately $115 million in ethanol production entities and have interests in four ethanol entities, two of which we have majority ownership. We have no definitive plans, but will continue to consider additional investments in the alternative energy segment.

We plan to seek and evaluate various investment opportunities. We can make no assurances that we will be successful in our efforts to find such opportunities.

Fiscal Year

All references in this report to a particular fiscal year are to REX s fiscal year ended January 31. For example, fiscal year 2009 means the period February 1, 2009 to January 31, 2010.

Comparison of Three Months and Nine Months Ended October 31, 2009 and 2008

Net sales and revenue in the quarter ended October 31, 2009 were $64.4 million compared to $39.2 million in the prior year s third quarter, representing an increase of $25.2 million or 64.4%. Net sales and revenue do not include merchandise sales from retail stores classified in discontinued operations. The increase was primarily caused by higher sales in our alternative energy segment of $38.9 million, which was partially offset by lower sales at retail stores of $13.9 million.

Net sales and revenue for the first nine months of fiscal year 2009 were $111.2 million compared to $99.6 million for the first nine months of fiscal year 2008. This represents an increase of $11.6 million or 11.6%. The increase was primarily caused by higher sales in our alternative energy segment of $43.8 million, which was partially offset by lower sales at retail stores of $32.8 million.

We closed our remaining retail store locations during the first nine months of fiscal year 2009 as we substantially completed the wind down of our retail operations.

Gross profit in the third quarter of fiscal year 2009 was $7.9 million (12.2% of net sales and revenue) compared to $3.7 million (9.4% of net sales and revenue) recorded in the third quarter of fiscal year 2008. This represents an increase of $4.2 million or 114.1%. Gross profit for the third quarter of fiscal year 2009 increased by $8.2 million as a result of operations in the alternative energy segment. Gross profit for the third quarter of fiscal year 2009 decreased by $3.9 million from our retail segment. In addition, our real estate segment had a decline in gross profit for the third quarter of fiscal year 2009 of $0.2 million.

Gross profit for the first nine months of fiscal year 2009 was $14.8 million (13.3% of net sales and revenue) compared to $16.3 million (16.4% of net sales and revenue) for the first nine months of fiscal year 2008. Gross profit for the nine months ended October 31, 2009 increased by $8.5 million as a result of operations in the alternative energy segment. Gross profit for the first nine months of fiscal year 2009 decreased by $9.4 million from our retail segment. Gross loss for the nine months ended October 31, 2009 from our real estate segment was 42.4% of segment net sales and revenue compared to gross profit of 93.3% of segment net sales and revenue for the nine months ended October 31, 2008.

Selling, general and administrative expenses for the third quarter of fiscal year 2009 were $2.6 million (4.0% of net sales and revenue), a decrease of $5.0 million or 65.9% from $7.6 million (19.3% of net sales and revenue) for the third quarter of fiscal year 2008. Selling, general and administrative expenses were $8.4 million (7.5% of net sales and revenue) for the first nine months of fiscal year 2009 representing a decrease of $13.3 million or 61.6% from $21.7 million (21.8% of net sales and revenue) for the first nine months of fiscal year 2008. For the third quarter of fiscal year 2009, these expenses declined approximately $4.0 million and $0.9 million in the retail and alternative energy segments, respectively. For the first nine months of fiscal year 2009, these expenses declined approximately $11.5 million and $1.7 million in the retail and alternative energy segments, respectively.

Investment income was $92,000 and $363,000 for the third quarter of fiscal years 2009 and 2008, respectively. Investment income was $356,000 and $1,732,000 for the first nine months of fiscal years 2009 and 2008, respectively. The decline generally results from lower yields earned on our excess cash in the current year compared to the prior year.

Interest expense was $1.6 million for the third quarter of fiscal year 2009, an increase of $0.6 million over the prior year third quarter. Interest expense was $3.3 million for the first nine months of fiscal year 2009 compared to $2.1 million for the first nine months of fiscal year 2008. The increases in interest expense are primarily attributable to the alternative energy segment.

During the third quarter of fiscal years 2009 and 2008, we recognized income of approximately $1,221,000 and $1,044,000 from our equity investments in Big River and Patriot, respectively. During the first nine months of fiscal years 2009 and 2008, we recognized income of approximately $1,144,000 and $2,966,000 from our equity investments in Big River and Patriot, respectively.

On September 16, 2008, we completed a transaction for the sale and leaseback of our Cheyenne, Wyoming distribution center under a three year lease term. A pre-tax gain, classified as continuing operations, of approximately $1.6 million (net of expenses) resulted from this sale. We also sold vacant land adjacent to the Cheyenne, Wyoming distribution center for a gain of $0.7 million.

During the third quarter of fiscal year 2009, Levelland Hockley entered into an agreement with Layne Christensen Company (Layne) to settle litigation between the two parties. As a result of the settlement agreement, Layne paid Levelland Hockley $1.5 million. Of the proceeds received, approximately $0.3 million was recognized as other income during the third quarter of fiscal year 2009. The remainder of the settlement offset contingent legal expenses and reduced the carrying amount of certain plant equipment.

During the third quarter of fiscal year 2009, Levelland Hockley received notification from the United States Department of Agriculture that Levelland Hockley had been approved to receive funds under the Advanced Biofuel Producer Program. As a result, approximately $0.5 million was recognized as other income during the third quarter of fiscal year 2009.

During the first nine months of fiscal year 2008, we recognized approximately $0.7 million of income from the sales of our entire partnership interests in Colona SynFuel Limited Partnership, L.L.L.P., (Colona) and Somerset Synfuel, L.P. (Somerset). This income represents the estimated final settlements related to Colona and Somerset as all synthetic fuel production ceased during fiscal year 2007. As the Section 29/45K program expired December 31, 2007, the Company does not expect additional income from these sales.

On March 30, 2004, we also sold our membership interest in the limited liability company that owned a synthetic fuel facility in Gillette, Wyoming. The plant was subsequently sold and during the third quarter of fiscal year 2006, we modified our agreement with the owners and operators of the synthetic fuel facility. Based on the terms of the modified agreement, we currently are not able to determine the likelihood and timing of collecting payments related to production occurring after September 30, 2006. Thus, we cannot currently determine the timing of income recognition, if any,

related to production occurring subsequent to September 30, 2006. We did not recognize any income from this sale during the first nine months of fiscal years 2009 or 2008.

We recognized losses of $899,000 and $947,000 during the third quarter of fiscal years 2009 and 2008, respectively, related to forward interest rate swap agreements that Levelland Hockley and One Earth entered into during fiscal year 2007. We recognized a loss related to the swaps of $1,561,000 during the first nine months of fiscal year 2009 compared to a gain of $481,000 during the first nine months of fiscal year 2008.

Our effective tax rate was 31.3% and 1.8% for the third quarter of fiscal years 2009 and 2008, respectively. Our effective tax rate for the first nine months of fiscal year 2009 was 38.4% compared to 112.0% for the first nine months of fiscal year 2008. The fluctuations in the effective tax rates are primarily a result of not recognizing a tax provision or benefit on the income or loss attributable to the noncontrolling interests in our consolidated ethanol subsidiaries.

During the quarter and nine months ended October 31, 2009 we closed 29 and 53 retail stores, respectively, that were classified as discontinued operations. As a result of these closings and certain other retail store closings from prior periods, we had a loss from discontinued operations, net of tax benefit, of $22,000 for the third quarter of fiscal year 2009 compared to $344,000 for the third quarter of fiscal year 2008. We had a loss from discontinued operations, net of tax benefit, of $873,000 for the first nine months of fiscal year 2009 compared to $103,000 for the first nine months of fiscal year 2008.

On April 30, 2007, we completed a transaction for the sale of 86 of our former store locations to KLAC REX, LLC (Klac) for $74.5 million in cash, before selling expenses. We also entered into leases to leaseback 40 of the properties from Klac for initial lease terms expiring January 31, 2010. All of the leases with Klac have been terminated as of October 31, 2009.

This transaction resulted in a gain (realized and deferred) of $14.8 million. Of this gain, $3.9 million and $1.1 million was recognized in the first nine months of fiscal years 2009 and 2008, respectively. The following table summarizes the pre-tax gains recognized during the third quarter and first nine months of fiscal years 2009 and 2008 (amounts in thousands):

Classification of Gain	Three Months Ended October 31, 2009	Three Months Ended October 31, 2008	Nine Months Ended October 31, 2009	Nine Months Ended October 31, 2008
Discontinued Operations	$	$ 323	$ 3,933	$ 1,068

Two properties classified as discontinued operations were sold or abandoned during the first nine months of fiscal year 2009, resulting in a gain, net of tax expense of $0.1 million. These gains are consistent with those recognized in the prior year.

Noncontrolling interest (income) loss of $(1,012,000) and $1,878,000 for the quarters ended October 31, 2009 and 2008, respectively and $(195,000) and $2,070,000 for the nine months ended October 31, 2009 and 2008, respectively, represents the owners (other than REX) share of the income or loss of Levelland Hockley and One Earth.

As a result of the foregoing, net income attributable to REX common shareholders for the third quarter of fiscal year 2009 was $2.3 million, an increase of $3.0 million from the loss of $0.7 million for the third quarter of fiscal year 2008. Net income attributable to REX common shareholders for the first nine months of fiscal year 2009 was $1.4 million, a decrease of $0.7 million from net income of $2.1 million for the first nine months of fiscal year 2008.

Business Segment Results

Beginning in the second quarter of fiscal year 2009, we realigned our reportable business segments to be consistent with changes to our management structure and reporting. We now have three segments: alternative energy, real estate and retail. The real estate segment was formerly included in the retail segment. For stores and warehouses closed for which we have a retained interest in the related real estate, operations are now presented in the real estate segment when retail operations ceased.

As discussed in Note 17, our chief operating decision maker (as defined by the accounting standards) evaluates the operating performance of our business segments using a measure we call segment profit. Segment profit includes realized and unrealized gains and losses on derivative financial instruments. Segment profit excludes income taxes, indirect interest expense, discontinued operations, indirect investment income and certain other items that are included in net income determined in accordance with accounting principles generally accepted in the United States of America. Management believes these are useful financial measures; however, they should not be construed as being more important than other comparable GAAP measures.

Items excluded from segment profit generally result from decisions made by corporate executives. Financing, divestiture and tax structure decisions are generally made by corporate executives. Excluding these items from our business segment performance measure enables us to evaluate business segment operating performance based upon current economic conditions.

The following table sets forth, for the periods indicated, sales and profits by segment (amounts in thousands):

	Three Months Ended October 31,		Nine Months Ended October 31,	
	2009	2008	2009	2008
Net sales and revenue:				
Alternative energy	$ 61,368	$ 22,444	$ 92,296	$ 48,468
Real estate	341	83	827	270
Retail	2,707	16,644	18,057	50,904
Total net sales and revenues	$ 64,416	$ 39,171	$ 111,180	$ 99,642
Segment gross profit (loss):				
Alternative energy	$ 5,790	$ (2,443)	$ 6,740	$ (1,753)
Real estate	(117)	77	(351)	252
Retail	2,187	6,038	8,383	17,807
Total gross profit	$ 7,860	$ 3,672	$ 14,772	$ 16,306
Segment profit (loss):				
Alternative energy	$ 4,569	$ (4,957)	$ 2,222	$ (3,527)
Real estate	(187)	25	(462)	95
Retail	843	2,936	3,142	3,331
Corporate expense	(430)	(484)	(1,046)	(1,113)
Interest expense	(60)	(111)	(314)	(332)
Investment income	82	345	230	1,481
Income from synthetic fuel investments		21		691
Income (loss) from continuing operations before income taxes	$ 4,817	$ (2,225)	$ 3,772	$ 626

Alternative Energy

The alternative energy segment includes the consolidated financial statements of Levelland Hockley and One Earth, our other investments in ethanol facilities, the income or loss related to those investments and certain administrative expenses. One Earth began limited production operations late in the second quarter of fiscal year 2009 and became fully operational during the third quarter of fiscal year 2009.

The following table summarizes sales from Levelland Hockley and One Earth by product group (amounts in thousands):

	Three Months Ended October 31,		Nine Months Ended October 31,	
	2009	2008	2009	2008
Ethanol	$ 51,332	$ 18,766	$ 75,108	$ 40,356
Dried distiller grains	7,636	1,936	10,925	4,674
Wet distiller grains	2,268	1,622	5,958	3,287
Other	132	120	305	151
Total	$ 61,368	$ 22,444	$ 92,296	$ 48,468

The following table summarizes selected operating data from Levelland Hockley and One Earth:

	Three Months Ended October 31,		Nine Months Ended October 31,	
	2009	2008	2009	2008
Average selling price per gallon of ethanol	$ 1.59	$ 2.32	$ 1.59	$ 2.31
Average selling price per ton of dried distiller grains	$ 101.00	$ 188.00	$ 113.00	$ 188.0
Average selling price per ton of wet distiller grains	$ 44.00	$ 50.00	$ 48.00	$

09/12/11 09/12/16

15,000,000 0.620% 09/12/11 09/11/14

The terms of the senior secured credit facility limit the paying of dividends, capital expenditures and leases, and require, among other things, a maximum ratio of indebtedness to earnings before interest, taxes, depreciation and amortization (“EBITDA”) of 3.5 and a minimum EBITDA to fixed charges ratio of 1.25. The credit agreement also provides that if a material adverse change in the company’s business operations or conditions occurs, the lender could declare an event of default. Under terms of the agreement, a material adverse effect is defined as (a) a material adverse change in, or a material adverse effect upon, the operations, business properties, condition (financial and otherwise) or prospects of the company and its subsidiaries taken as a whole; (b) a material impairment of the ability of the company to perform under the loan agreements and to avoid any event of default; or (c) a material adverse effect upon the legality, validity, binding effect or enforceability against the company of any loan document. A material adverse effect is determined on a subjective basis by the company's creditors. The credit facility is secured by the capital stock of the company’s domestic subsidiaries, 65% of the capital stock of the company’s foreign subsidiaries and substantially all other assets of the company. At September 29, 2012, the company was in compliance with all covenants pursuant to its borrowing agreements.

11) Financial Instruments

ASC 815 “Derivatives and Hedging” requires an entity to recognize all derivatives as either assets or liabilities and measure those instruments at fair value. Derivatives that do not qualify as a hedge must be adjusted to fair value in earnings. If a derivative does qualify as a hedge under ASC 815, changes in the fair value will either be offset against the change in fair value of the hedged assets, liabilities or firm commitments or recognized in other accumulated comprehensive income until the hedged item is recognized in earnings. The ineffective portion of a hedge's change in fair value will be immediately recognized in earnings.

Foreign Exchange: The company uses foreign currency forward purchase and sale contracts with terms of less than one year to hedge its exposure to changes in foreign currency exchange rates. The company’s primary hedging activities are to mitigate its exposure to changes in exchange rates on intercompany and third party trade receivables and payables. The company does not currently enter into derivative financial instruments for speculative purposes. In managing its foreign currency exposures, the company identifies and aggregates naturally occurring offsetting positions and then hedges residual balance sheet exposures. The following table summarizes the forward contracts outstanding at September 29, 2012. The fair value of the forward contracts was an asset of $0.2 million at the end of the third quarter of 2012.

Sell		Purchase		Maturity
25,000,000	British Pounds	31,456,000	Euro Dollars	December 28, 2012
9,500,000	British Pounds	15,346,000	US Dollars	December 28, 2012
1,800,000	Canadian Dollars	1,829,000	US Dollars	December 28, 2012
28,000,000	Euro Dollars	36,160,000	US Dollars	December 28, 2012
45,000,000	Mexican Pesos	3,462,000	US Dollars	December 28, 2012
500,000	Australian Dollars	516,000	US Dollars	December 28, 2012
11,000,000	Danish Krones	1,903,000	US Dollars	December 28, 2012

Interest Rate: The company has entered into interest rate swaps to fix the interest rate applicable to certain of its variable-rate debt. The agreements swap one-month LIBOR for fixed rates. The company has designated these swaps as cash flow hedges and all changes in fair value of the swaps are recognized in accumulated other comprehensive income. As of September 29, 2012, the fair value of these instruments was a liability of $3.3 million. The change in fair value of these swap agreements in the first nine months of 2012 was a loss of $0.1 million, net of taxes.

The following tables summarize the company’s fair value of interest rate swaps (in thousands):

	Condensed Consolidated Balance Sheet Presentation	Sep 29, 2012	Dec 31, 2011
Fair value	Other non-current liabilities	$(3,318)	$(3,216)

The impact on earnings from interest rate swaps was as follows (in thousands):

		Three Months Ended		Nine Months Ended	
	Presentation of Gain/(loss)	Sep 29, 2012	Oct 1, 2011	Sep 29, 2012	Oct 1, 2011
Gain/(loss) recognized in accumulated other comprehensive income	Other comprehensive income	$(486)	$(1,813)	$(1,638)	$(3,733)
Gain/(loss) reclassified from accumulated other comprehensive income (effective portion)	Interest expense	$(501)	$(896)	$(1,518)	$(2,473)
Gain/(loss) recognized in income (ineffective portion)	Other expense	$5	$(22)	$18	$(19)

Interest rate swaps are subject to default risk to the extent the counterparties are unable to satisfy their settlement obligations under the interest rate swap agreements. The company reviews the credit profile of the financial institutions and assesses its creditworthiness prior to entering into the interest rate swap agreements. The interest rate swap agreements typically contain provisions that allow the counterparty to require early settlement in the event that the company becomes insolvent or is unable to maintain compliance with its covenants under its existing debt agreements.

12) Segment Infomation

The company operates in two reportable operating segments defined by management reporting structure and operating activities.

The Commercial Foodservice Equipment Group manufactures, sells, and distributes cooking equipment for the restaurant and institutional kitchen industry. This business segment has manufacturing facilities in California, Illinois, Michigan, New Hampshire, North Carolina, Tennessee, Texas, Vermont, Australia, China, Denmark, Italy, the Philippines and the United Kingdom. Principal product lines of this group include conveyor ovens, ranges, steamers, convection ovens, combi-ovens, broilers and steam cooking equipment, induction cooking systems, baking and proofing ovens, charbroilers, catering equipment, fryers, toasters, hot food servers, foodwarming equipment, griddles, coffee and beverage dispensing equipment and kitchen processing and ventilation equipment. These products are sold and marketed under the brand names: Anets, Beech, Blodgett, Blodgett Combi, Blodgett Range, Bloomfield, Britannia, CTX, Carter-Hoffmann, CookTek, Doyon, Frifri, Giga, Holman, Houno, IMC, Jade, Lang, Lincat, MagiKitch'n, Middleby Marshall, MPC, Nu-Vu, PerfectFry, Pitco, Southbend, Star, Toastmaster, TurboChef and Wells.

The Food Processing Equipment Group manufactures preparation, cooking, packaging and food safety equipment for the food processing industry. This business segment has manufacturing operations in Illinois, Iowa, North Carolina, Texas, Virginia, Wisconsin, Australia, France, Germany and Mexico. Principal product lines of this group include batch ovens, belt ovens, continuous processing ovens, automated thermal processing systems, automated loading and unloading systems, meat presses, breading, battering, mixing, forming, grinding and slicing equipment, food suspension, reduction and emulsion systems, defrosting equipment, packaging and food safety equipment. These products are sold and marketed under the brand names: Alkar, Armor Inox, Auto-Bake, Baker Thermal Solutions, Danfotech, Drake, Maurer-Atmos, MP Equipment, RapidPak and Stewart.

The accounting policies of the segments are the same as those described in the summary of significant accounting policies. The chief operating decision maker evaluates individual segment performance based on operating income. Management believes that intersegment sales are made at established arms length transfer prices.

Net Sales Summary
(dollars in thousands)

	Three Months Ended				Nine Months Ended			
	Sep 29, 2012		Oct 1, 2011		Sep 29, 2012		Oct 1, 2011	
	Sales	Percent	Sales	Percent	Sales	Percent	Sales	Percent
Business Segments:								
Commercial Foodservice	$198,615	77.1	$189,133	86.5	$573,431	76.8	$521,137	85.1
Food Processing	59,084	22.9	29,587	13.5	173,131	23.2	91,010	14.9
Total	$257,699	100.0 %	$218,720	100.0 %	$746,562	100.0 %	612,147	100.0 %

The following table summarizes the results of operations for the company's business segments(1) (in thousands):

	Commercial Foodservice	Food Processing	Corporate and Other(2)	Total
Three Months Ended September 29, 2012				
Net sales	$198,615	$59,084	$—	$257,699
Income from operations	50,105	7,877	(10,553)	47,429
Depreciation and amortization expense	4,238	2,250	613	7,101
Net capital expenditures	779	2,029	58	2,866
Nine Months Ended September 29, 2012				
Net sales	$573,431	$173,131	$—	$746,562
Income from operations	139,508	23,755	(33,836)	129,427
Depreciation and amortization expense	13,445	6,182	1,063	20,690
Net capital expenditures	3,108	2,752	103	5,963
Total assets	853,582	277,129	63,291	1,194,002
Three Months Ended October 1, 2011				
Net sales	$189,133	$29,587	$—	$218,720
Income from operations	47,875	2,484	(13,173)	37,186
Depreciation and amortization expense	3,995	1,106	233	5,334
Net capital expenditures	1,533	23	173	1,729
Nine Months Ended October 1, 2011				
Net sales	$521,137	$91,010	$—	$612,147
Income from operations	127,118	13,706	(37,026)	103,798
Depreciation and amortization expense	11,886	2,207	574	14,667
Net capital expenditures	4,327	162	391	4,880
Total assets	827,276	139,618	63,473	1,030,367

(1)Non-operating expenses are not allocated to the operating segments. Non-operating expenses consist of interest expense and deferred financing amortization, foreign exchange gains and losses and other income and expense items outside of income from operations.
(2)Includes corporate and other general company assets and operations.

Geographic Information

Long-lived assets, not including goodwill and other intangibles (in thousands):

	Sep 29, 2012	Oct 1, 2011
United States and Canada	$50,415	$41,663
Asia	3,486	2,837
Europe and Middle East	19,042	19,380
Latin America	1,260	1,181
Total international	$23,788	$23,398
	$74,203	$65,061

Net sales (in thousands):

	Three Months Ended		Nine Months Ended	
	Sep 29, 2012	Oct 1, 2011	Sep 29, 2012	Oct 1, 2011
United States and Canada	$176,982	$149,891	$511,475	$446,071
Asia	23,495	17,228	66,634	41,052
Europe and Middle East	42,289	41,628	123,165	95,248
Latin America	14,933	9,973	45,288	29,776
Total international	$80,717	$68,829	$235,087	$166,076
	$257,699	$218,720	$746,562	$612,147

13) Employee Retirement Plans

(a) Pension Plans

The company maintains a non-contributory defined benefit plan for its union employees at the Elgin, Illinois facility. Benefits are determined based upon retirement age and years of service with the company. This defined benefit plan was frozen on April 30, 2002, and no further benefits accrue to the participants beyond this date. Plan participants will receive or continue to receive payments for benefits earned on or prior to April 30, 2002 upon reaching retirement age. The employees participating in the defined benefit plan were enrolled in a newly established 401K savings plan on July 1, 2002, further described below.

The company maintains a non-contributory defined benefit plan for its employees at the Smithville, Tennessee facility, which was acquired as part of the Star acquisition. Benefits are determined based upon retirement age and years of service with the company. This defined benefit plan was frozen on April 1, 2008, and no further benefits accrue to the participants beyond this date. Plan participants will receive or continue to receive payments for benefits earned on or prior to April 1, 2008 upon reaching retirement age.

The company maintains a defined benefit plan for its employees at the Wrexham, the United Kingdom facility, which was acquired as part of the Lincat acquisition. Benefits are determined based upon retirement age and years of service with the company. This defined benefit plan was frozen on April 30, 2010 prior to Middleby’s acquisition of the company. No further benefits accrue to the participants beyond this date. Plan participants will receive or continue to receive payments for benefits earned on or prior to April 30, 2010 upon reaching retirement age.

The company also maintains a retirement benefit agreement with its Chairman. The retirement benefits are based upon a percentage of the Chairman’s final base salary.

(b) 401K Savings Plans

The company maintains two separate defined contribution 401K savings plans covering all employees in the United States. These two plans separately cover the union employees at the Elgin, Illinois facility and all other remaining union and non-union employees in the United States. The company makes profit sharing contributions to the various plans in accordance with the requirements of the plan. Profit sharing contributions for the Elgin Union 401K savings plans are made in accordance with the agreement.

14) Subsequent Event

On October 31, 2012, the company completed its acquisition of Nieco Corporation ("Nieco"), a leading manufacturer of automatic broilers for the commercial foodservice industry located in Windsor, California with annual revenues of approximately $20 million.

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

Informational Notes

This report contains forward-looking statements subject to the safe harbor created by the Private Securities Litigation Reform Act of 1995. The company cautions readers that these projections are based upon future results or events and are highly dependent upon a variety of important factors which could cause such results or events to differ materially from any forward-looking statements which may be deemed to have been made in this report, or which are otherwise made by or on behalf of the company. Such factors include, but are not limited to, volatility in earnings resulting from goodwill impairment losses which may occur irregularly and in varying amounts; variability in financing costs; quarterly variations in operating results; dependence on key customers; international exposure; foreign exchange and political risks affecting international sales; ability to protect trademarks, copyrights and other intellectual property; changing market conditions; the impact of competitive products and pricing; the timely development and market acceptance of the company's products; the availability and cost of raw materials; and other risks detailed herein and from time-to-time in the company's Securities and Exchange Commission ("SEC") filings, including the company's 2011 Annual Report on Form 10-K.

Net Sales Summary
(dollars in thousands)

	Three Months Ended				Nine Months Ended			
	Sep 29, 2012		Oct 1, 2011		Sep 29, 2012		Oct 1, 2011	
	Sales	Percent	Sales	Percent	Sales	Percent	Sales	Percent
Business Segments:								
Commercial Foodservice	$198,615	77.1	$189,133	86.5	$573,431	76.8	$521,137	85.1
Food Processing	59,084	22.9	29,587	13.5	173,131	23.2	91,010	14.9
Total	$257,699	100.0 %	$218,720	100.0 %	$746,562	100.0 %	612,147	100.0 %

Results of Operations

The following table sets forth certain consolidated statements of earnings items as a percentage of net sales for the periods.

	Three Months Ended		Nine Months Ended	
	Sep 29, 2012	Oct 1, 2011	Sep 29, 2012	Oct 1, 2011
Net sales	100.0 %	100.0 %	100.0 %	100.0 %
Cost of sales	61.0	60.1	61.2	60.1
Gross profit	39.0	39.9	38.8	39.9
Selling, general and administrative expenses	20.6	22.9	21.5	22.9
Income from operations	18.4	17.0	17.3	17.0
Net interest expense and deferred financing amortization	1.1	1.1	0.9	1.1
Other expense (income), net	1.1	(0.2)	0.5	0.2
Earnings before income taxes	16.2	16.1	15.9	15.7
Provision for income taxes	4.6	5.4	4.8	5.7
Net earnings	11.6 %	10.7 %	11.1 %	10.0 %

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Three Months Ended September 29, 2012 Compared to Three Months Ended October 1, 2011

NET SALES. Net sales for the third quarter of fiscal 2012 were $257.7 million as compared to $218.7 million in the third quarter of 2011. Of the $39.0 million increase in net sales, $17.6 million, or 8.0%, was attributable to acquisition growth, resulting from the fiscal 2011 acquisitions of Danfotech, Maurer, Auto-Bake, Drake and Armor Inox and the fiscal 2012 acquisitions of Baker and Stewart. Excluding acquisitions, net sales increased $21.4 million, or 9.8%, from the prior year, reflecting a net sales increase of 5.0% at the Commercial Foodservice Equipment Group and an increase of 40.2% at the Food Processing Equipment Group.

- Net sales of the Commercial Foodservice Equipment Group increased by $9.5 million, or 5.0%, to $198.6 million in the third quarter of 2012 as compared to $189.1 million in the prior year quarter. International sales decreased $1.8 million, or 3.1%, to $55.5 million, as compared to $57.3 million in the prior year quarter. The decline in international sales reflects lower sales in Europe due to economic conditions, partially offset by increased sales in Asia and Latin America as the company continues to realize growth in emerging markets due to expansion of restaurant chains. Domestically, the company realized a sales increase of $11.3 million, or 8.6%, to $143.1 million, as compared to $131.8 million in the prior year quarter. This increase in domestic sales includes increased sales with major restaurant chains on new product initiatives and reflects improvements in general market conditions.
- Net sales of the Food Processing Equipment Group increased by $29.5 million, or 99.7%, to $59.1 million in the third quarter of 2012 as compared to $29.6 million in the prior year quarter. Net sales resulting from the acquisitions of Maurer, Auto-Bake, Drake, Armor Inox, Baker and Stewart, which were acquired on July 22, 2011, August 1, 2011, December 2, 2011, December 21, 2011, March 14, 2012 and September 5, 2012, respectively, accounted for an increase of $17.6 million during the third quarter of 2012. Excluding the impact of these acquisitions, net sales of Food Processing Equipment increased by $11.9 million, or 40.2%, as compared to the prior year quarter. International sales increased by $13.7 million, or 119.1%, to $25.2 million, as compared to $11.5 million in the prior year quarter. This includes an increase of $10.8 million from the recent acquisitions. Domestically, the company realized a sales increase of $15.8 million, or 87.3%, to $33.9 million, as compared to $18.1 million in the prior year quarter. This includes an increase of $6.8 million from the recent acquisitions. The increase in sales, both international and domestic, reflects expansion of food processing operations to support growing global demand and initiatives to upgrade food processing operations to more efficient and cost effective equipment.

GROSS PROFIT. Gross profit increased to $100.4 million in the third quarter of 2012 from $87.3 million in the prior year period, reflecting the impact of higher sales volumes. The gross margin rate decreased from 39.9% in the third quarter of 2011 to 39.0% in the third quarter of 2012. The net decrease in the gross margin rate reflects the impact of lower margins at certain of the newly acquired companies and the effect of a higher sales mix of sales from the Food Processing Equipment Group at a lower gross margin rate.

- Gross profit at the Commercial Foodservice Equipment Group increased by $2.1 million, or 2.7%, to $80.5 million in the third quarter of 2012 as compared to $78.4 million in the prior year quarter. The gross margin rate declined to 40.5% as compared to 41.5% in the prior year quarter.
- Gross profit at the Food Processing Equipment Group increased by $10.6 million, or 109.3%, to $20.3 million in the third quarter of 2012 as compared to $9.7 million in prior year quarter. The gross margin rate increased to 34.3% as compared to 32.8% in the prior year quarter. Gross profit from the acquisitions of Maurer, Auto-Bake, Drake, Armor Inox, Baker and Stewart, accounted for approximately $5.4 million of the increase. Excluding the recent acquisition, the gross profit increased by approximately $5.2 million.

SELLING, GENERAL AND ADMINISTRATIVE EXPENSES. Combined selling, general and administrative expenses increased from $50.1 million in the third quarter of 2011 to $53.0 million in the third quarter of 2012. As a percentage of net sales, operating expenses were 22.9% in the third quarter of 2011 as compared to 20.6% in the third quarter of 2012. Selling expenses increased from $24.6 million in the third quarter of 2011 to $26.0 million in the third quarter of 2012. Selling expenses reflect increased costs of $2.5 million associated with the Maurer, Auto-Bake,

Drake, Armor Inox, Baker and Stewart acquisitions. The increase in selling expenses related to acquisitions is offset by decreases of $0.5 million due to sales incentive programs, $0.3 million in trade advertising and $0.3 million in convention and trade show costs. General and administrative expenses increased from $25.6 million in the third quarter of 2011 to $27.1 million in the third quarter of 2012. General and administrative expenses reflect $3.1 million of increased costs associated with the Maurer, Auto-Bake, Drake, Armor Inox, Baker and Stewart acquisitions including $1.4 million of non-cash intangible amortization expense. The increase in general and administrative expense related to acquisitions is offset by a net decrease of $1.9 million in non-cash share-based and incentive compensation.

NON-OPERATING EXPENSES. Interest and deferred financing amortization costs increased to $3.0 million in the third quarter of 2012 as compared to $2.3 million in the third quarter of 2011. Other expense was $2.8 million in the third quarter of 2012 as compared to $0.4 million of other income in the prior year third quarter and consists primarily of foreign exchange gains and losses.

INCOME TAXES. A tax provision of $11.9 million, at an effective rate of 28.6%, was recorded during the third quarter 2012, as compared to an $11.8 million provision a 33.5% effective rate in the prior year quarter. In comparison to the prior year quarter, the tax provision reflects reduced state tax exposure related to prior year refunds, a lower effective rate on increased income in lower tax rate foreign jurisdictions and increased deductions related to U.S. manufacturing activities.

Nine Months Ended September 29, 2012 Compared to Nine Months Ended October 1, 2011

NET SALES. Net sales for the nine month period ended September 29, 2012 were $746.6 million as compared to $612.1 million in the nine month period ended October 1, 2011. Of the $134.5 million increase in net sales, $92.9 million, or 15.2%, was attributable to acquisition growth, resulting from the fiscal 2011 acquisitions of Beech, Lincat, Danfotech, Maurer, Auto-Bake, Drake and Armor Inox and the fiscal 2012 acquisitions of Baker and Stewart. Excluding acquisitions, net sales increased $41.6 million, or 6.8%, from the prior year, reflecting a net sales increase of 5.5% at the Commercial Foodservice Equipment Group and an increase of 14.2% at the Food Processing Equipment Group.

- Net sales of the Commercial Foodservice Equipment Group increased by $52.3 million, or 10.0%, to $573.4 million in the nine month period ended September 29, 2012 as compared to $521.1 million in the prior period. Net sales resulting from the acquisitions of Beech and Lincat, which were acquired on April 12, 2011 and May 27, 2011, respectively, accounted for an increase of $23.7 million during the nine month period ended September 29, 2012. Excluding the impact of these acquisitions, net sales of Commercial Foodservice Equipment increased by $28.6 million, or 5.5%, as compared to the prior period. International sales increased $20.4 million, or 14.7%, to $158.8 million, as compared to $138.4 million in the prior period. This includes the increase of $23.7 million from the recent acquisitions, as these companies primarily have international sales. The increase in international sales reflects increased sales in Asia and Latin America as the company continues to realize growth in emerging markets due to expansion of restaurant chains, partially offset by lower sales in Europe due to economic conditions. Domestically, the company realized a sales increase of $31.9 million, or 8.3%, to $414.6 million, as compared to $382.7 million in the prior period. This increase in domestic sales includes increased sales with major restaurant chains on new product initiatives and reflects improvements in general market conditions.
- Net sales of the Food Processing Equipment Group increased by $82.1 million, or 90.2%, to $173.1 million in the nine month period ended September 29, 2012 as compared to $91.0 million in the prior period. Net sales resulting from the acquisitions of Danfotech, Maurer, Auto-Bake, Drake, Armor Inox, Baker and Stewart, which were acquired on July 5, 2011, July 22, 2011, August 1, 2011, December 2, 2011, December 21, 2011, March 14, 2012 and September 5, 2012, respectively, accounted for an increase of $69.2 million during the nine month period ended September 29, 2012. Excluding the impact of these acquisitions, net sales of Food Processing Equipment increased by $12.9 million, or 14.2%, as compared to the prior period. International sales increased by $48.7 million, or 176.4%, to $76.3 million, as compared to $27.6 million in the prior period. This includes an increase of $38.8 million from the recent acquisitions. Domestically, the company realized a sales increase of $33.4 million, or 52.7%, to $96.8 million, as compared to $63.4 million in the prior year quarter. This includes an increase of $30.4 million from the recent acquisitions. The increase in sales, both international and domestic, reflects expansion of food processing operations to support growing global demand and initiatives to upgrade food processing operations to more efficient and cost effective equipment.

GROSS PROFIT. Gross profit increased to $289.7 million in the nine month period ended September 29, 2012 from $244.5 million in the prior year period, reflecting the impact of higher sales volumes. The gross margin rate decreased from 39.9% in the nine month period ended October 1, 2011 to 38.8% in the current year period. The net decrease in the gross margin rate reflects the impact of lower margins at certain of the newly acquired companies and the effect of a higher sales mix of sales from the Food Processing Equipment Group at a lower gross margin rate.

- Gross profit at the Commercial Foodservice Equipment Group increased by $19.2 million, or 9.0%, to $232.6 million in the nine month period ended September 29, 2012 as compared to $213.4 million in the prior year period. The gross margin rate declined to 40.6% as compared to 41.0% in the prior year period. Gross profit from the acquisitions of Beech and Lincat, which were acquired during fiscal 2011, accounted for approximately $9.1 million of the increase in gross profit during the period. Excluding the recent acquisitions, the gross profit increased by approximately $10.1 million on higher sales volumes.
- Gross profit at the Food Processing Equipment Group increased by $27.5 million, or 85.9%, to $59.5 million in the nine month period ended September 29, 2012 as compared to $32.0 million in prior year period. The gross margin rate declined to 34.4% as compared to 35.2% in the prior year period due to lower margins at recently acquired companies. Gross profit from the acquisitions of Danfotech, Maurer, Auto-Bake, Drake, Armor Inox, Baker and Stewart, accounted for approximately $22.3 million of the increase. Excluding the recent acquisitions, the gross profit increased by approximately $5.2 million on higher sales volumes.

SELLING, GENERAL AND ADMINISTRATIVE EXPENSES. Combined selling, general and administrative expenses increased from $140.7 million in the nine month period ended October 1, 2011 to $160.3 million in the nine month period ended September 29, 2012. As a percentage of net sales, operating expenses were 22.9% in the nine month period ended October 1, 2011 as compared to 21.5% in the nine month period ended September 29, 2012. Selling expenses increased from $66.7 million in the nine month period ended October 1, 2011 to $79.4 million in the nine month period ended September 29, 2012. Selling expenses reflect increased costs of $11.6 million associated with the Beech, Lincat, Danfotech, Maurer, Auto-Bake, Drake, Armor Inox, Baker and Stewart acquisitions. Additionally, expenses increased $1.7 million related to higher commissions on higher sales volumes offset by a decrease of $0.7 million in convention and trade show costs. General and administrative expenses increased from $74.0 million in the nine month period ended October 1, 2011 to $80.9 million in the nine month period ended September 29, 2012. General and administrative expenses reflect $12.4 million of increased costs associated with the Beech, Lincat, Danfotech, Maurer, Auto-Bake, Drake, Armor Inox, Baker and Stewart acquisitions, including $5.3 million of non-cash intangible amortization expense. The increase in general and administrative costs related to acquisitions is offset by decreases of $2.7 million in non-cash share-based and incentive compensation, $0.6 million in professional fees, $1.6 million in professional services associated with acquisition related activities and $0.5 million in reduction to acquisition related future earnout payments.

NON-OPERATING EXPENSES. Interest and deferred financing amortization costs were $7.0 million in the nine month period ended September 29, 2012 as compared to $6.5 million in the prior period. Other expense was $3.7 million in the nine month period ended September 29, 2012 as compared to $1.0 million in the prior year period and consists primarily of foreign exchange gains and losses.

INCOME TAXES. A tax provision of $35.8 million, at an effective rate of 30.2%, was recorded during the nine month period ended September 29, 2012, as compared to a $35.4 million provision at a 36.7% effective rate in the prior year period. In comparison to the prior year period, the tax provision reflects favorable adjustments to tax reserves related to reduced state exposures, a lower effective rate on increased income in lower tax rate foreign jurisdictions and increased deductions related to U.S. manufacturing activities.

Financial Condition and Liquidity

During the nine months ended September 29, 2012, cash and cash equivalents decreased by $5.1 million to $35.1 million at September 29, 2012 from $40.2 million at December 31, 2011. Net borrowings decreased from $317.3 million at December 31, 2011 to $269.3 million at September 29, 2012.

OPERATING ACTIVITIES. Net cash provided by operating activities was $94.0 million for the nine months ended September 29, 2012 compared to $65.7 million for the nine months ended October 1, 2011 due primarily to increased earnings.

During the nine months ended September 29, 2012, working capital levels changed due to increased working capital needs. These changes in working capital levels included a $14.3 million increase in inventory, due to several factors including increased order rates, increased inventory levels during build out periods in conjunction with plant consolidation efforts and higher levels of stock associated with foreign sourcing initiatives. Accounts receivable decreased $12.6 million due to lower receivable balances at the Food Processing Equipment Group resulting from the timing of projects which are often paid in advance. Changes in working capital levels also included an $9.2 million increase in prepaid expenses and other assets primarily related to deferred financing costs in conjunction with the new credit facility, an $8.2 million increase in accounts payable due to the timing of vendor payments and $16.7 million decrease in accrued expenses and other non-current liabilities primarily related to the timing of tax payments.

INVESTING ACTIVITIES. During the nine months ended September 29, 2012, net cash used in investing activities included $38.6 million related to the 2012 acquisitions of Baker and Stewart and prior year acquisitions of CookTek, Danfotech and Drake along with $6.0 million of additions and upgrades of production equipment and manufacturing facilities.

FINANCING ACTIVITIES. Net cash flows used in financing activities were $54.9 million during the nine months ended September 29, 2012. The company’s borrowing activities included the repayment of $309.4 million under the company's previous credit facility which was repaid and replaced with its new amended facility, $264.5 million of net proceeds under its newly amended $1.0 billion revolving credit facility and $3.1 million of net repayments of foreign borrowings.

The company used $16.0 million to repurchase 161,653 shares of its common stock that were surrendered to the company by employees in lieu of cash for payment for withholding taxes related to restricted stock vestings and stock option exercises that occurred during the nine months ended September 29, 2012.

At September 29, 2012, the company was in compliance with all covenants pursuant to its borrowing agreements. The company believes that its current capital resources, including cash and cash equivalents, cash generated from operations, funds available from its revolving credit facility and access to the credit and capital markets will be sufficient to finance its operations, debt service obligations, capital expenditures, acquisitions, product development and integration expenditures for the foreseeable future.

Recently Issued Accounting Standards

In May 2011, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") No. 2011-04, "Amendments to Achieve Common Fair Value Measurement and Disclosure Requirements in U.S. GAAP and IFRSs." This update provides clarification on existing fair value measurement requirements, amends existing guidance primarily related to fair value measurements for financial instruments, and requires enhanced disclosures on fair value measurements. The additional disclosures are specific to Level 3 fair value measurements, transfers between Level 1 and Level 2 of the fair value hierarchy, financial instruments not measured at fair value and use of an asset measured or disclosed at fair value differing from its highest and best use. The company adopted the provisions of ASU No. 2011-04 on January 1, 2012. There was no impact to the company's financial position, results of operations or cash flows.

In June 2011 and December 2011, the FASB issued ASU No. 2011-05, "Presentation of Comprehensive Income" and ASU No. 2011-12, "Deferral of the Effective Date for Amendments to the Presentation of Reclassifications of Items Out of Accumulated Other Comprehensive Income in Accounting Standards Update No. 2011-05", respectively. ASU No. 2011-05 eliminated the option to present the components of other comprehensive income in the statement of changes in stockholders' equity. Instead, entities have the option to present the components of net income, the components of other comprehensive income and total comprehensive income in a single continuous statement or in two separate but consecutive statements. The guidance does not change the items reported in other comprehensive income or when an item of other comprehensive income is reclassified to net income. The company adopted the provisions of ASU No. 2011-05 on January 1, 2012. As this guidance only revises the presentation of comprehensive income, there was no impact to the company's financial position, results of operations or cash flows. For interim reporting purposes, the company has elected to present comprehensive income in a single continuous statement now referred to as the Condensed Consolidated Statements of Comprehensive Income.

In September 2011, the FASB issued ASU No. 2011-08, "Intangibles – Goodwill and Other (Topic 350)." This ASU will allow an entity the option to make a qualitative evaluation about the likelihood of goodwill impairment to determine whether it should calculate the fair value of a reporting unit. The ASU also amends previous guidance by expanding upon the examples of events and circumstances that an entity should consider between annual impairment tests in determining whether it is more likely than not that the fair value of a reporting unit is less than its carrying amount. Also, the ASU provides additional examples of events and circumstances that an entity having a reporting unit with a zero or negative carrying amount should consider in determining whether to measure an impairment loss, if any, under the second step of the goodwill impairment test. The company adopted the provisions of ASU 2011-08 on January 1, 2012. There was no impact to the company's financial position, results of operation or cash flows. The company will determine whether to apply the qualitative evaluation allowed under this ASU in connection with the company's annual goodwill impairment test.

On July 27, 2012, the FASB issued ASU 2012-02, "Intangibles - Goodwill and Other (Topic 350)". Similar to ASU 2011-08, this ASU amends the guidance in ASC 350-30. While ASU 2011-08 allows an entity the option to make a qualitative evaluation about the likelihood of goodwill impairment to determine whether it should calculate the fair value of a reporting unit, ASU-2012-02 allows an entity the option to make a qualitative evaluation to determine whether the existence of events and circumstances indicate that it is more likely than not the indefinite-lived intangible asset is impaired thus requiring the entity to perform quantitative impairment tests in accordance with ASC 350-30. The ASU also amends previous guidance by expanding upon the examples of events and circumstances that an entity should consider when making the qualitative evaluation. The company is currently evaluating its adoption approach to this guidance.

Critical Accounting Policies and Estimates

Management's discussion and analysis of financial condition and results of operations are based upon the company's consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States. The preparation of these financial statements requires the company to make significant estimates and judgments that affect the reported amounts of assets, liabilities, revenues and expenses as well as related disclosures. On an ongoing basis, the company evaluates its estimates and judgments based on historical experience and various other factors that are believed to be reasonable under the circumstances. Actual results may differ from

these estimates under different assumptions or conditions and any such differences could be material to our consolidated financial statements.

Revenue Recognition. At the Commercial Foodservice Group, the company recognizes revenue on the sale of its products when risk of loss has passed to the customer, which occurs at the time of shipment, and collectibility is reasonably assured. The sale prices of the products sold are fixed and determinable at the time of shipment. Sales are reported net of sales returns, sales incentives and cash discounts based on prior experience and other quantitative and qualitative factors. Such revenue was approximately 77% for the nine month period ended September 29, 2012.

At the Food Processing Equipment Group, the company enters into long-term sales contracts for certain products that are often significant relative to the business. Revenue under these long-term sales contracts is recognized using the percentage of completion method defined within ASC 605-35 “Construction-Type and Production-Type Contracts” due to the length of time to fully manufacture and assemble the equipment. The company measures revenue recognized based on the ratio of actual labor hours incurred in relation to the total estimated labor hours to be incurred related to the contract. Because estimated labor hours to complete a project are based upon forecasts using the best available information, the actual hours may differ from original estimates. The percentage of completion method of accounting for these contracts most accurately reflects the status of these uncompleted contracts in the company's financial statements and most accurately measures the matching of revenues with expenses. At the time a loss on a contract becomes known, the amount of the estimated loss is recognized in the consolidated financial statements. Revenue for sales of products and services not covered by long-term sales contracts are recognized risk of loss has passed to the customer, which occurs at the time of shipment, and collectibility is reasonably assured. The sale prices of the products sold are fixed and determinable at the time of shipment. Sales are reported net of sales returns, sales incentives and cash discounts based on prior experience and other quantitative and qualitative factors.

Inventories. Inventories are stated at the lower of cost or market using the first-in, first-out method for the majority of the company’s inventories. The company evaluates the need to record valuation adjustments for inventory on a regular basis. The company’s policy is to evaluate all inventories including raw material, work-in-process, finished goods, and spare parts. Inventory in excess of estimated usage requirements is written down to its estimated net realizable value. Inherent in the estimates of net realizable value are estimates related to our future manufacturing schedules, customer demand, possible alternative uses, and ultimate realization of potentially excess inventory.

Goodwill and Other Intangibles. The company’s business acquisitions result in the recognition of goodwill and other intangible assets, which are a significant portion of the company’s total assets. The company recognizes goodwill and other intangible assets under the guidance of ASC Topic 350-10, “Intangibles — Goodwill and Other.” Goodwill represents the excess of acquisition costs over the fair value of the net tangible assets and identifiable intangible assets acquired in a business combination. Identifiable intangible assets are recognized separately from goodwill and include trademarks and trade names, technology, customer relationships and other specifically identifiable assets. Trademarks and trade names are deemed to be indefinite-lived. Goodwill and indefinite-lived intangible assets are not amortized, but are subject to impairment testing. On an annual basis, or more frequently if triggering events occur, the company compares the estimated fair value to the carrying value to determine if a potential goodwill impairment exists. If the fair value is less than its carrying value, an impairment loss, if any, is recorded for the difference between the implied fair value and the carrying value of goodwill. In estimating the fair value of specific intangible assets, management relies on a number of factors, including operating results, business plans, economic projections, anticipated future cash flows, comparable transactions and other market data. There are inherent uncertainties related to these factors and management’s judgment in applying them in the impairment tests of goodwill and other intangible assets. The company determined to change the date of its annual impairment test from the last day of its fiscal fourth quarter to the first day. This will allow the company more time to prepare the necessary tests prior to filing its annual report.

Income Taxes. The company provides deferred income tax assets and liabilities based on the estimated future tax effects of differences between the financial and tax bases of assets and liabilities based on currently enacted tax laws. The company’s deferred and other tax balances are based on management’s interpretation of the tax regulations and rulings in numerous taxing jurisdictions. Income tax expense and liabilities recognized by the company also reflect its best estimates and assumptions regarding, among other things, the level of future taxable income, the effect of the Company’s various tax planning strategies and uncertain tax positions. Future tax authority rulings and changes in tax laws, changes in projected levels of taxable income and future tax planning strategies could affect the actual effective tax rate and tax balances recorded by the company. The company follows the provisions under ASC 740-10-25 that provides a recognition threshold and measurement criteria for the financial statement recognition of a tax benefit taken or expected to be taken in a tax return. Tax benefits are recognized only when it is more likely than not, based on the technical merits, that the benefits will be sustained on examination. Tax benefits that meet the more-likely-than-not recognition threshold are measured using a probability weighting of the largest amount of tax benefit that has greater than 50% likelihood of being realized upon settlement. Whether the more-likely-than-not recognition threshold is met

for a particular tax benefit is a matter of judgment based on the individual facts and circumstances evaluated in light of all available evidence as of the balance sheet date.

Contractual Obligations

The company's contractual cash payment obligations as of September 29, 2012 are set forth below (in thousands):

	Amounts Due Sellers From Acquisitions	Debt	Estimated Interest on Debt	Operating Leases	Total Contractual Cash Obligations
Less than 1 year	$1,845	$3,409	$8,316	$5,148	$18,718
1-3 years	4,000	233	17,566	7,513	29,312
3-5 years	—	256	16,839	2,524	19,619
After 5 years	—	265,416	5	1,208	266,629
	$5,845	$269,314	$42,726	$16,393	$334,278

The company has obligations to make $5.8 million of purchase price payments to the sellers of CookTek, Danfotech and Stewart that were deferred in conjunction with the acquisitions.

As of September 29, 2012, the company had $264.5 million outstanding under its revolving credit line as part of its senior credit agreement. The average interest rate on this debt amounted to 1.82% at September 29, 2012. This facility matures in August of 2017. As of September 29, 2012, the company also has $4.8 million of debt outstanding under various foreign credit facilities. The estimated interest payments reflected in the table above assume that the level of debt and average interest rate on the company’s revolving credit line under its senior credit agreement does not change until the facility reaches maturity in August 2017. The estimated payments also assume that relative to the company’s foreign borrowings: all scheduled term loan payments are made; the level of borrowings does not change; and the average interest rates remain at their September 29, 2012 rates. Also reflected in the table above is $3.6 million of payments to be made related to the company’s interest rate swap agreements in 2012.

The company’s projected benefit obligation under its defined benefit plans exceeded the plans’ assets by $22.6 million at the end of 2011. The unfunded benefit obligations were comprised of a $1.6 million underfunding of the company's union plan, $7.4 million underfunding of the company’s Smithville plan, which was acquired as part of the Star acquisition, $2.2 million underfunding of the company’s Wrexham plan, which was acquired as part of the Lincat acquisition, and $11.4 million underfunding of the company's director plans. The company expects to continue to make minimum contributions to the Smithville and union plans as required by ERISA, of $0.3 million and $0.1 million, respectively, in 2012. The company expects to contribute $0.5 million to the Wrexham plan in 2012.

The company places purchase orders with its suppliers in the ordinary course of business. These purchase orders are generally to fulfill short-term manufacturing requirements of less than 90 days and most are cancelable with a restocking penalty. The company has no long-term purchase contracts or minimum purchase obligations with any supplier.

The company has no activities, obligations or exposures associated with off-balance sheet arrangements.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

Interest Rate Risk

The company is exposed to market risk related to changes in interest rates. The following table summarizes the maturity of the company's debt obligations.

Twelve Month Period Ending	Fixed Rate Debt	Variable Rate Debt
	(in thousands)	
September 29, 2013	$—	$3,409
September 29, 2014	—	115
September 29, 2015	—	118
September 29, 2016	—	125
September 29, 2017 and thereafter	—	265,547
	$—	$269,314

On August 7, 2012, the company entered into a new senior secured multi-currency credit facility. Terms of the company's senior credit agreement provide for $1.0 billion of availability under a revolving credit line. As of September 29, 2012, the company had $264.5 million of borrowings outstanding under this facility. The company also has $6.6 million in outstanding letters of credit as of September 29, 2012, which reduces the borrowing availability under the revolving credit line. Remaining borrowing availability under this facility was $728.9 million at September 29, 2012.

At September 29, 2012, borrowings under the senior secured credit facility are assessed at an interest rate 1.50% above LIBOR for long-term borrowings or at the higher of the Prime rate and the Federal Funds Rate. At September 29, 2012 the average interest rate on the senior debt amounted to 1.82%. The interest rates on borrowings under the senior secured credit facility may be adjusted quarterly based on the company's indebtedness ratio on a rolling four-quarter basis. Additionally, a commitment fee, based upon the indebtedness ratio is charged on the unused portion of the revolving credit line. This variable commitment fee amounted to 0.25% as of September 29, 2012.

In August 2006, the company completed its acquisition of Houno A/S in Denmark. This acquisition was funded in part with locally established debt facilities with borrowings in Danish Krone. On September 29, 2012 these facilities amounted to $3.0 million in U.S. dollars, including $1.5 million outstanding under a revolving credit facility and $1.5 million of a term loan. The interest rate on the revolving credit facility is assessed at 1.25% above Euro LIBOR, which amounted to 2.80% on September 29, 2012. The term loan matures in 2013 and the interest rate is assessed at 4.55%.

In April 2008, the company completed its acquisition of Giga Grandi Cucine S.r.l in Italy. This acquisition was funded in part with locally established debt facilities with borrowings denominated in Euro. On September 29, 2012 these facilities amounted to $1.6 million in U.S. dollars. The interest rate on the credit facilities is variable based on the three-month Euro LIBOR. At September 29, 2012, the average interest rate on these facilities was approximately 5.20%. The facilities mature in April 2015.

In December 2011, the company completed its acquisition of Armor Inox in France. This acquisition was funded in part with locally established debt facilities with borrowings denominated in Euro. On September 29, 2012, these facilities amounted to $0.2 million in U.S. dollars. The interest rate on the credit facilities is variable based on the three-month Euro LIBOR. The facilities mature in April 2015. At September 29, 2012, the average interest rate on these facilities was approximately 1.00%.

The company believes that its current capital resources, including cash and cash equivalents, cash generated from operations, funds available from its revolving credit facility and access to the credit and capital markets will be sufficient to finance its operations, debt service obligations, capital expenditures, product development and integration expenditures for the foreseeable future.

The company has historically entered into interest rate swap agreements to effectively fix the interest rate on a portion of its outstanding debt. The agreements swap one-month LIBOR for fixed rates. As of September 29, 2012 the company had the following interest rate swaps in effect:

Notional Amount	Fixed Interest Rate	Effective Date	Maturity Date
$20,000,000	1.800%	11/23/09	11/23/12
20,000,000	1.560%	03/11/10	12/11/12
15,000,000	0.950%	08/06/10	12/06/12
25,000,000	1.610%	02/23/11	02/24/14
25,000,000	2.520%	02/23/11	02/23/16
25,000,000	0.975%	07/18/11	07/18/14
15,000,000	1.185%	09/12/11	09/12/16
15,000,000	0.620%	09/12/11	09/11/14

The terms of the senior secured credit facility limit the paying of dividends, capital expenditures and leases, and require, among other things, a maximum ratio of indebtedness to earnings before interest, taxes, depreciation and amortization (“EBITDA”) of 3.5 and a minimum EBITDA to fixed charges ratio of 1.25. The credit agreement also provides that if a material adverse change in the company’s business operations or conditions occurs, the lender could declare an event of default. Under terms of the agreement a material adverse effect is defined as (a) a material adverse change in, or a material adverse effect upon, the operations, business properties, condition (financial and otherwise) or prospects of the company and its subsidiaries taken as a whole; (b) a material impairment of the ability of the company to perform under the loan agreements and to avoid any event of default; or (c) a material adverse effect upon the legality, validity, binding effect or enforceability against the company of any loan document. A material adverse effect is determined on a subjective basis by the company's creditors. The credit facility is secured by the capital stock of the company’s domestic subsidiaries, 65% of the capital stock of the company’s foreign subsidiaries and substantially all other assets of the company. At September 29, 2012, the company was in compliance with all covenants pursuant to its borrowing agreements.

Financing Derivative Instruments

The company has entered into interest rate swaps to fix the interest rate applicable to certain of its variable-rate debt. The agreements swap one-month LIBOR for fixed rates. The company has designated these swaps as cash flow hedges and all changes in fair value of the swaps are recognized in accumulated other comprehensive income. As of September 29, 2012, the fair value of these instruments was a liability of $3.3 million. The change in fair value of these swap agreements in the first nine months of 2012 was a loss of $0.1 million, net of taxes.

Foreign Exchange Derivative Financial Instruments

The company uses foreign currency forward purchase and sale contracts with terms of less than one year to hedge its exposure to changes in foreign currency exchange rates. The company's primary hedging activities are to mitigate its exposure to changes in exchange rates on intercompany and third party trade receivables and payables. The company does not currently enter into derivative financial instruments for speculative purposes. In managing its foreign currency exposures, the company identifies and aggregates naturally occurring offsetting positions and then hedges residual balance sheet exposures. The following table summarizes the forward contracts outstanding at September 29, 2012. The fair value of the forward contracts was an asset of $0.2 million at the end of the third quarter of 2012.

Sell		Purchase		Maturity
25,000,000	British Pounds	31,456,000	Euro Dollars	December 28, 2012
9,500,000	British Pounds	15,346,000	US Dollars	December 28, 2012
1,800,000	Canadian Dollars	1,829,000	US Dollars	December 28, 2012
28,000,000	Euro Dollars	36,160,000	US Dollars	December 28, 2012
45,000,000	Mexican Pesos	3,462,000	US Dollars	December 28, 2012
500,000	Australian Dollars	516,000	US Dollars	December 28, 2012
11,000,000	Danish Krones	1,903,000	US Dollars	December 28, 2012

Item 4. Controls and Procedures

The company maintains disclosure controls and procedures that are designed to ensure that information required to be disclosed in the company's Exchange Act reports is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and that such information is accumulated and communicated to the company's management, including its Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure.

As of September 29, 2012, the company carried out an evaluation, under the supervision and with the participation of the company's management, including the company's Chief Executive Officer and Chief Financial Officer, of the effectiveness of the company's disclosure controls and procedures. Based on the foregoing, the company's Chief Executive Officer and Chief Financial Officer concluded that the company's disclosure controls and procedures were effective as of the end of this period.

During the quarter ended September 29, 2012, there has been no change in the company's internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the company's internal control over financial reporting.

PART II. OTHER INFORMATION

The company was not required to report the information pursuant to Items 1 through 6 of Part II of Form 10-Q for the nine months ended September 29, 2012, except as follows:

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

c) Issuer Purchases of Equity Securities

	Total Number of Shares Purchased	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Plan or Program	Maximum Number of Shares that May Yet be Purchased Under the Plan or Program
July 1 to July 28, 2012	—	$—	—	111,140
July 29 to August 25, 2012	12,976	116.64	12,976	98,164
August 26 to September 29, 2012	—	—	—	98,164
Quarter ended September 29, 2012	12,976	$116.64	12,976	98,164

In July 1998, the company's Board of Directors adopted a stock repurchase program that authorized the purchase of common shares in open market purchases. As of September 29, 2012, 1,701,836 shares had been purchased under the 1998 stock repurchase program.

Item 6. Exhibits

Exhibits – The following exhibits are filed herewith:

Exhibit 10.1 –	Fifth Amended and Restated Credit Agreement dated as of August 7, 2012 among Middleby Marshall, Inc., The Middleby Corporation, the subsidiary borrowers named therein, the lenders named therein, and Bank of America, N.A., as administrative agent for the lenders, incorporated by reference to Exhibit 10.1 to the company's Form 8-K filed on August 9, 2012.
Exhibit 18.1 –	Preferability letter by Ernst & Young, LLP, regarding a change in accounting principle.
Exhibit 31.1 –	Rule 13a-14(a)/15d -14(a) Certification of the Chief Executive Officer as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
Exhibit 31.2 –	Rule 13a-14(a)/15d -14(a) Certification of the Chief Financial Officer as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
Exhibit 32.1 –	Certification by the Principal Executive Officer of The Middleby Corporation Pursuant to Rule 13A-14(b) under the Exchange Act and Section 906 of the Sarbanes-Oxley Act of 2002(18 U.S.C. 1350).
Exhibit 32.2 –	Certification by the Principal Financial Officer of The Middleby Corporation Pursuant to Rule 13A-14(b) under the Exchange Act and Section 906 of the Sarbanes-Oxley Act of 2002(18 U.S.C. 1350).
Exhibit 101 –	Financial statements on Form 10-Q for the quarter ended September 29, 2012, filed on November 8, 2012, formatted in Extensive Business Reporting Language (XBRL); (i) condensed consolidated balance sheets, (ii) condensed consolidated statements of earnings, (iii) condensed statements of cash flows, (iv) notes to the condensed consolidated financial statements.

SIGNATURE

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

THE MIDDLEBY CORPORATION
(Registrant)

Date: November 8, 2012

By: /s/ Timothy J. FitzGerald
Timothy J. FitzGerald
Vice President,
Chief Financial Officer

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