

HARTE HANKS INC
Form 8-K
November 17, 2017

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

November 17, 2017 (November 13, 2017)

Date of Report (Date of Earliest Event Reported)

Harte Hanks, Inc.

(Exact Name of Registrant as Specified in its Charter)

Delaware

(State or Other Jurisdiction
of Incorporation)

1-7120

(Commission
File Number)

74-1677284

(I.R.S. Employer
Identification No.)

9601 McAllister Freeway, Suite 610

San Antonio, Texas 78216

(210) 829-9000

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(Address of principal executive offices and Registrant's telephone number, including area code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Item 3.02 Unregistered Sales of Equity Securities.

As previously disclosed on its Current Report on Form 8-K filed with the Securities and Exchange Commission on November 3, 2017 (the "Item 5.02 8-K"), on November 1, 2017, Harte Hanks, Inc. (the "Company") announced the appointment of Jon C. Biro as its Executive Vice President & Chief Financial Officer, which appointment became effective November 9, 2017.

As anticipated in the disclosure provided in the Item 5.02 8-K, on November 13, 2017, the Company granted to Mr. Biro, as a material inducement to his employment with the Company, the following equity-based employment inducement awards approved by the independent members of the Company's Board of Directors pursuant to the award agreements furnished as exhibits to the Item 5.02 8-K and filed herewith: (i) a nonqualified stock option to purchase 338,552 shares of the Company's common stock, vesting in four equal annual installments with an exercise price per share of common stock equal to the closing price of a share of common stock on the grant date (*i.e.*, \$1.00); (ii) 240,000 restricted stock units, vesting in three equal annual installments; and (iii) 180,000 performance stock units, vesting on (subject to) the same conditions, allocations and performance criteria as the annual performance stock unit awards made to the Company's other executive officers for 2017. These equity awards are subject to vesting acceleration upon certain transactions involving the Company pursuant to the Company's form of severance agreement, substantially in the form of the agreement filed on March 19, 2015 as Exhibit 10.1 to the Company's Current Report on Form 8-K.

The issuance of the foregoing equity-based awards was exempt from the registration requirements of the Securities Act of 1933 by virtue of Section 4(a)(2) thereof and/or Regulation D promulgated thereunder on the basis that such equity-based awards do not involve any public offering of the Company's securities.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits. The following exhibits are being filed herewith:

- 10.1 Offer Letter from Harte Hanks, Inc. to Jon C. Biro dated October 30, 2017
- 10.2 Form of Restricted Stock Unit Award Agreement between Harte Hanks, Inc. and Jon C. Biro
- 10.3. Form of Non-Qualified Stock Option Agreement between Harte Hanks, Inc. and Jon C. Biro
- 10.4. Form of Performance Stock Unit Award Agreement between Harte Hanks, Inc. and Jon C. Biro

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 hereunto duly authorized.

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Harte Hanks, Inc.

Dated: November 17, 2017

By: /s/Robert L. R. Munden
Executive Vice President,
General Counsel & Secretary

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granted as restricted stock without voting rights, each of the shares of Common Stock is entitled to one vote. Shareholders do not have cumulative voting rights with respect to the election of directors.

Based on Schedule 13G filings with the Securities and Exchange Commission ("SEC"), the following table indicates the beneficial owners of more than 5 percent of the Corporation's outstanding Common Stock as of December 31, 2009:

Name and Address of Beneficial Owner	Shares Beneficially Owned	Percent of Class
Lazard Asset Management LLC 30 Rockefeller Plaza New York, New York 10112	7,199,656 ⁽¹⁾	7.65
Janus Capital Management LLC 151 Detroit Street Denver, Colorado 80206	7,038,682 ⁽²⁾	7.50
Vanguard Fiduciary Trust Company 500 Admiral Nelson Boulevard Malvern, Pennsylvania 19355	5,640,744 ⁽³⁾	6.00
Blackrock Inc. 40 East 52nd Street New York, New York 10022	5,620,707 ⁽⁴⁾	5.97
Iridian Asset Management LLC David L. Cohen Harold J. Levy 276 Post Road West Westport, Connecticut 06880-4704	4,874,299 ⁽⁵⁾	5.20

(1) 2,953,542 shares held with sole voting power and 7,199,656 shares held with sole dispositive power.

(2) 808,644 shares are held with sole voting power and dispositive power. 6,230,038 shares are held with shared voting and dispositive power. Janus Capital has a direct 91.8 percent ownership stake in INTECH Investment Management ("INTECH") and a direct 77.8 percent ownership stake in Perkins Investment Management LLC ("Perkins"). Due to the above ownership structure, holdings for Janus Capital, Perkins and INTECH are aggregated for purposes of this filing. Janus Capital, Perkins and INTECH are registered investment advisers, each furnishing investment advice to various investment companies registered under Section 8 of the Investment Company Act of 1940 and to individual and institutional clients (collectively referred to herein as "Managed Portfolios").

As a result of its role as investment adviser or sub-adviser to the Managed Portfolios, Janus Capital may be deemed to be the beneficial owner of 808,644 shares or 0.9 percent of the shares outstanding of Ball Common Stock held by such Managed Portfolios. However, Janus Capital does not have the right to receive any dividends from, or the proceeds from the sale of, the securities held in the Managed Portfolios and disclaims any ownership associated with such rights.

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As a result of its role as investment adviser or sub-adviser to the Managed Portfolios, Perkins may be deemed to be the beneficial owner of 2,454,853 shares or 2.6 percent of the shares outstanding of Ball Common Stock held by such Managed Portfolios. However, Perkins does not have the right to receive any dividends from, or the proceeds from the sale of, the securities held in the Managed Portfolios and disclaims any ownership associated with such rights.

As a result of its role as investment adviser or sub-adviser to the Managed Portfolios, INTECH may be deemed to be the beneficial owner of 3,775,185 shares or 4.0 percent of the shares outstanding of Ball Common Stock held by such Managed Portfolios. However, INTECH does not have the right to receive any dividends from, or the proceeds from the sale of, the securities held in the Managed Portfolios and disclaims any ownership associated with such rights.

- (3) The shares are held with shared voting and dispositive power.
- (4) 5,620,707 shares are held with sole voting and dispositive investment power.
- (5) The Reporting Persons are Iridian Asset Management LLC ("Iridian"), David L. Cohen ("Cohen") and Harold J. Levy ("Levy") (collectively, the "Reporting Persons").

Iridian is majority owned by Arovid Associates LLC, a Delaware limited liability company owned and controlled by the following: 12.5 percent by Cohen, 12.5 percent by Levy, 37.5 percent by LLMD LLC, a Delaware limited liability company, and 37.5 percent by ALHERO LLC, a

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Delaware limited liability company. LLMD LLC is owned 1 percent by Cohen, and 99 percent by a family trust controlled by Cohen. ALHERO LLC is owned 1 percent by Levy and 99 percent by a family trust controlled by Levy.

The Reporting Persons beneficially owned in the aggregate 4,874,299 shares of Common Stock which equates to approximately 5.2 percent of the outstanding shares (the percentage of shares of Common Stock owned being based upon 94,103,151 shares of Common Stock outstanding at October 25, 2009, as set forth in the Issuer's Quarterly Report on Form 10-Q for the quarter ended September 27, 2009). Iridian has direct beneficial ownership of the shares of Common Stock in the accounts for which it serves as the investment adviser under its investment management agreements. Messrs. Cohen and Levy may be deemed to possess beneficial ownership of the shares of Common Stock beneficially owned by Iridian by virtue of their indirect controlling ownership of Iridian, and having the power to vote and direct the disposition of shares of Common Stock as joint Chief Investment Officers of Iridian. Messrs. Cohen and Levy disclaim beneficial ownership of such shares.

Mr. Levy has direct beneficial ownership of the 40,000 shares of Common Stock owned by him. As used herein, "beneficial ownership" has the meaning set forth in Rule 13d-3 under the Securities Exchange Act of 1934, as amended.

Iridian has the direct power to vote or direct the vote, and the direct power to dispose or direct the disposition, of 4,874,299 shares of Common Stock. Cohen and Levy may be deemed to share with Iridian the power to vote or direct the vote and to dispose or direct the disposition of such shares.

Mr. Levy has the direct power to vote or direct the vote, and the direct power to dispose or direct the disposition, of 40,000 shares of Common Stock.

BENEFICIAL OWNERSHIP

The following table lists the beneficial ownership of Common Stock of the Corporation by director nominees, continuing directors, the Chief Executive Officer and the four other most highly compensated executive officers and, as a group, of such persons and the other executive officers as of the close of business on March 1, 2010.

Title of Class	Name of Beneficial Owner	Shares Beneficially Owned ⁽¹⁾	Percent of Class ⁽²⁾
Common	Robert W. Alspaugh	11,564 ⁽³⁾	*
Common	Hanno C. Fiedler	65,051 ⁽⁴⁾	*
Common	John R. Friedery	140,626 ⁽⁵⁾	*
Common	John A. Hayes	318,376 ⁽⁶⁾	*
Common	R. David Hoover	1,711,916 ⁽⁷⁾	1.9
Common	John F. Lehman	107,637 ⁽⁸⁾	*
Common	Georgia R. Nelson	16,961 ⁽⁹⁾	*
Common	Jan Nicholson	167,527 ⁽¹⁰⁾	*
Common	Raymond J. Seabrook	521,854 ⁽¹¹⁾	*
Common	George M. Smart	30,141 ⁽¹²⁾	*
Common	Theodore M. Solso	66,886 ⁽¹³⁾	*
Common	Stuart A. Taylor II	75,882 ⁽¹⁴⁾	*
Common	Erik H. van der Kaay	50,153 ⁽¹⁵⁾	*
Common	David A. Westerlund	470,061 ⁽¹⁶⁾	*
Common	All of the above and present executive officers as a group (20)	4,553,395 ⁽¹⁷⁾	4.9

(1) Full voting and dispositive investment power, unless otherwise noted.

(2) * Indicates less than 1 percent ownership.

(3) Includes 4,222 stock units equivalent to 4,222 shares with no voting rights or dispositive investment power that have been deferred by Mr. Alspaugh pursuant to the Ball Corporation Deferred Compensation Company Stock Plan, and 7,342 restricted stock units with no voting rights or dispositive investment power.

(4) Includes 10,000 shares that Mr. Fiedler may acquire during the next 60 days upon exercise of stock options. Also includes 6,686 shares of restricted stock or restricted stock units without voting rights. Voting rights attach to the shares as the restrictions lapse.

(5)

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Includes 86,789 stock units equivalent to 86,789 shares with no voting rights or dispositive investment power that have been deferred by Mr. Friedery pursuant to the Ball Corporation Deferred Compensation Company Stock Plans.

(6)

Includes 113,750 shares that Mr. Hayes may acquire during the next 60 days upon the exercise of stock options. Also includes 72,331 stock units equivalent to 72,331 shares with no voting rights or dispositive investment power that have been deferred pursuant to the Ball Corporation Deferred Compensation Company Stock Plans, and 85,550 restricted stock units with no voting rights or dispositive investment power.

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- (7) Includes 177,647 shares held in trust for Mr. Hoover's spouse, as to which he disclaims beneficial ownership, and 946,055 shares that he may acquire during the next 60 days upon the exercise of stock options. Also includes 395,773 stock units equivalent to 395,773 shares with no voting rights or dispositive investment power that have been deferred pursuant to the Ball Corporation Deferred Compensation Company Stock Plans, and 182,250 restricted stock units with no voting rights or dispositive investment power.
- (8) Includes 8,000 shares that Mr. Lehman may acquire during the next 60 days upon the exercise of stock options. Also includes 21,780 stock units equivalent to 21,780 shares with no voting rights or dispositive investment power that have been deferred pursuant to the Ball Corporation Deferred Compensation Company Stock Plans, and 6,342 restricted stock units with no voting rights or dispositive investment power.
- (9) Includes 7,619 stock units equivalent to 7,619 shares with no voting rights or dispositive investment power that have been deferred by Ms. Nelson pursuant to the Ball Corporation Deferred Compensation Company Stock Plans, and 6,342 restricted stock units with no voting rights or dispositive investment power.
- (10) Includes 8,000 shares that Ms. Nicholson may acquire during the next 60 days upon the exercise of stock options. Also includes 11,538 stock units equivalent to 11,538 shares with no voting rights or dispositive investment power that have been deferred pursuant to the Ball Corporation Deferred Compensation Company Stock Plans, and 6,342 restricted stock units with no voting rights or dispositive investment power.
- (11) Includes 4,525 shares owned by Mr. Seabrook's child, as to which he disclaims beneficial ownership, and 235,419 shares that he may acquire during the next 60 days upon the exercise of stock options. Also includes 135,781 stock units equivalent to 135,781 shares with no voting rights or dispositive investment power that have been deferred pursuant to the Ball Corporation Deferred Compensation Company Stock Plans, and 52,000 restricted stock units with no voting rights or dispositive investment power.
- (12) Includes 6,274 stock units equivalent to 6,274 shares with no voting rights or dispositive investment power that have been deferred by Mr. Smart pursuant to the Ball Corporation Deferred Compensation Company Stock Plans, and 6,342 restricted stock units with no voting rights or dispositive investment power.
- (13) Includes 8,000 shares that Mr. Solso may acquire during the next 60 days upon the exercise of stock options. Also includes 20,121 stock units equivalent to 20,121 shares with no voting rights or dispositive investment power that have been deferred pursuant to the Ball Corporation Deferred Compensation Company Stock Plans, and 6,342 restricted stock units with no voting rights or dispositive investment power.
- (14) Includes 8,000 shares that Mr. Taylor may acquire during the next 60 days upon the exercise of stock options. Also includes 21,201 stock units equivalent to 21,201 shares with no voting rights or dispositive investment power that have been deferred pursuant to the Ball Corporation Deferred Compensation Company Stock Plans, and 6,342 restricted stock units with no voting rights or dispositive investment power.
- (15) Includes 12,178 stock units equivalent to 12,178 shares with no voting rights or dispositive investment power that have been deferred by Mr. van der Kaay pursuant to the Ball Corporation Deferred Compensation Company Stock Plans, and 6,342 restricted stock units with no voting rights or dispositive investment power.
- (16) Includes 25,078 shares owned by Mr. Westerlund's spouse, as to which he disclaims beneficial ownership, and 222,875 shares that he may acquire during the next 60 days upon the exercise of stock options. Also includes 120,872 stock units equivalent to 120,872 shares with no voting rights or dispositive investment power that have been deferred pursuant to the Ball Corporation Deferred Compensation Company Stock Plans, and 47,500 restricted stock units with no voting rights or dispositive investment power.
- (17) Includes 228,170 shares to which beneficial ownership is disclaimed, and 1,881,636 shares that may be acquired during the next 60 days upon the exercise of stock options, and includes 98,500 shares to which beneficial ownership is disclaimed. Also includes 1,100,627 stock units equivalent to 1,100,627 shares with no voting rights or dispositive investment power that have been deferred pursuant to the Ball Corporation Deferred Compensation Company Stock Plans, and includes 51,885 units to which beneficial ownership is disclaimed; and 532,903 restricted stock units with no voting rights or dispositive investment power, and includes 20,500 restricted stock units to which beneficial ownership is disclaimed. In addition, 33,480 shares have been pledged.

VOTING ITEM I ELECTION OF DIRECTORS

In 1985 the shareholders adopted the Amended Articles of Incorporation of Ball Corporation, dividing the Board of Directors ("Board") into three classes, as nearly equal in number as possible, with directors serving staggered three-year terms. Amendments to the Indiana Business Corporation Law in 2009 made this classified Board structure statutorily required for Ball Corporation, effective from and after July 31, 2009. On April 28, 2010, one person is to be elected to serve as a director until the 2011 Annual Meeting of Shareholders, and four persons are to be

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elected to serve as directors until the 2013 Annual Meeting of Shareholders. Unless otherwise instructed on the proxy card, the persons named in the accompanying proxy intend to vote for nominee John A. Hayes to hold office as a director of the Corporation until the 2011 Annual Meeting of Shareholders (Class II), and nominees Hanno C. Fiedler, John F. Lehman, Georgia R. Nelson and Erik H. van der Kaay to hold office as directors of the Corporation until the 2013 Annual Meeting of Shareholders (Class I), or, in each case, until his or her respective successor is elected and qualified. All nominees have consented to be named as candidates in the Proxy Statement and have agreed to serve if elected. If,

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for any reason, any of the nominees becomes unavailable for election, the shares represented by proxies will be voted for any substitute nominee or nominees designated by the Board. The Board has no reason to believe that any of the nominees will be unable to serve.

In accordance with the Indiana Business Corporation Law, directors are elected by a plurality of the votes cast by the shares entitled to vote in the election at a meeting at which a quorum is present. Abstentions and broker nonvotes are considered neither votes "for" nor "against." Proxies may not be voted for a greater number of persons than the five named nominees.

Set forth for each director nominee in Class I and II and for each continuing director in Classes II and III is the director's principal occupation and employment during the past five years or, if longer, the period during which the director has served as a director, and certain other information, including his or her public company directorships during the past five years.

DIRECTOR NOMINEES AND CONTINUING DIRECTORS

To Be Elected for a Term of One Year Until the 2011 Annual Meeting (Class II)

President and Chief Operating Officer, Ball Corporation since January 2010; Executive Vice President and Chief Operating Officer 2008-2010; President, Ball Packaging Europe and Senior Vice President, Ball Corporation 2007-2008; Executive Vice President, Ball Packaging Europe and Vice President, Ball Corporation 2005-2006; Vice President, Corporate Strategy, Marketing and Development 2003-2005; Vice President, Corporate Planning and Development 2000-2003; Senior Director, Corporate Planning and Development 1999. Age 44.

Director since 2010.

John A. Hayes

To Be Elected for a Term of Three Years Until the 2013 Annual Meeting (Class I)

Executive Vice President, Ball Corporation, and Chairman and Chief Executive Officer, Ball Packaging Europe, December 2002 to December 2005; Chairman and Chief Executive Officer, Schmalbach-Lubeca AG, 1996 to 2002. Age 64.

Director since 2002. Member, Finance Committee.

Mr. Fiedler serves on the Supervisory Boards of LIC Langmatz GmbH, Garmisch-Partenkirchen, Germany; Pfeleiderer AG, Neumarkt, Germany; and MAN-Roland Druckmaschinen AG, Offenbach, Germany. In the past five years, Mr. Fiedler has served on the Supervisory Boards of Thyssen Krupp Steel AG, Duisburg, Germany; Howaldtswerke-Deutsche Werft AG, Kiel, Germany; and Unterehmsverwaltung GmbH & Co. KG, Neumarkt, Germany.

Hanno C. Fiedler

Chairman, J. F. Lehman & Company, New York, New York, since 1990; Chairman of the Board, OAO Technology Solutions, Inc., Greenbelt, Maryland, since 2001; Chairman of the Board, Sperry Marine Inc., Charlottesville, Virginia, 1993 to 1996; Managing Director, Investment Banking Division, PaineWebber Inc., New York, New York, 1988 to 1990; Secretary of the Navy, Washington, D.C., 1981 to 1987. Age 67.

Director since 1987. Member, Finance and Nominating/Corporate Governance Committees.

Mr. Lehman is a director of EnerSys, Reading, Pennsylvania, and Verisk, Inc., Jersey City, New Jersey.

John F. Lehman

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President and Chief Executive Officer, PTI Resources, LLC, Chicago, Illinois, since June 2005; President, Midwest Generation EME, LLC, Chicago, Illinois, April 1999 to June 2005; General Manager, Edison Mission Energy Americas, Irvine, California, January 2002 to June 2005. Age 60.

Director since 2006. Member, Human Resources and Nominating/Corporate Governance Committees.

Ms. Nelson is a director of Cummins, Inc., Columbus, Indiana, and Nicor Inc., Naperville, Illinois. In the past five years, Ms. Nelson has served on the board of Tower Automotive, Inc., Novi, Michigan.

Georgia R. Nelson

Chairman of the Board, Symmetricom, Inc., October 2002 to October 2003; President, Chief Executive Officer, and Chairman of the Board, Datum, Inc., Irvine, California, April 1998 to October 2002 upon Symmetricom's acquisition of Datum. Age 69.

Director since 2004. Member, Audit and Finance Committees.

Mr. van der Kaay is a director of RF Micro Devices, Greensboro, North Carolina, and Orolia, S.A., Sophia Antipolis, France. In the past five years, Mr. van der Kaay has served on the boards of Comarco, Inc., Irvine, California, and TransSwitch Corporation, Shelton, Connecticut.

Erik H. van der Kaay

The Board of Directors recommends that shareholders vote "FOR" the election of each nominee for Director named above.

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\$15,824,244

Royalties

829,879 524,691

Total Revenue

17,431,560 16,348,935

Cost of goods sold

12,767,190 12,312,498

Gross profit

4,664,370 4,036,437

Operating expenses:

General and administrative expenses

2,017,312 2,159,422

Selling expenses

1,068,252 1,038,257

Total operating expenses

3,085,564 3,197,679

Operating income

1,578,806 838,758

Other income (expense):

Interest expense

(249,770) (237,102)

Interest income

22,834 612

Gain on sale of fixed assets

3,017 25,119

Other, net

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SMITH-MIDLAND CORPORATION AND SUBSIDIARIES

Consolidated Statements of Cash Flows

(Unaudited)

	<u>Nine months ended September 30,</u>	
	<u>2005</u>	<u>2004</u>
Cash flows from operating activities:		
Cash received from customers	\$ 17,073,017	\$ 15,879,985
Cash paid to suppliers and employees	(16,413,867)	(15,124,538)
Income taxes paid, net	(85,888)	383,174
Interest paid	(249,770)	(237,102)
Other	530,976	492,598
Net cash provided by operating activities	854,468	1,394,117
Cash flows from investing activities:		
Purchases of property and equipment	(644,888)	(185,262)
Proceeds from sale of fixed assets	42,654	23,874
Net cash absorbed by investing activities	(602,234)	(161,388)
Cash flows from financing activities:		
Proceeds from borrowings	245,495	0
Repayments of borrowings	(313,116)	(562,973)
Proceeds from options exercised	131,324	0
Repayments on borrowings related parties, net	(8,169)	(13,731)
Net cash provided (absorbed) by financing activities	55,534	(576,704)
Net increase in cash and cash equivalents	307,768	656,025
Cash and cash equivalents at beginning of period	499,744	699,645
	<u> </u>	<u> </u>
Cash and cash equivalents at end of period	\$ 807,512	\$ 1,355,670
	<u> </u>	<u> </u>
Reconciliation of net income to net cash provided by operating activities:		
Net income	\$ 1,158,073	\$ 657,100
	<u> </u>	<u> </u>
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	444,439	360,916
Gain on sale/disposal of fixed assets	(3,017)	(25,119)
Expenses (net) related to pay down on officer note receivable	56,645	79,857
Decrease (increase) in:		
Accounts receivable billed	(961,865)	(183,059)
Accounts receivable unbilled	326,709	(359,817)
Inventories	(241,970)	134,261
Income tax receivable	0	383,174
Prepaid expenses and other	(329,850)	(174,011)
Increase (decrease) in:		
Accounts payable trade	(172,528)	157,405
Accrued expenses and other liabilities	72,589	289,484
Accrued income taxes	158,437	0
Customer deposits	276,612	73,926

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Deferred Taxes	70,194	0
	<u> </u>	<u> </u>
Net cash provided by operating activities	\$ 854,468	\$ 1,394,117
	<u> </u>	<u> </u>

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

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SMITH-MIDLAND CORPORATION AND SUBSIDIARIES

Notes to Consolidated Financial Statements

September 30, 2005

(Unaudited)

Basis of Presentation

As permitted by the rules of the Securities and Exchange Commission applicable to quarterly reports on Form 10-QSB, these notes are condensed and do not contain all disclosures required by generally accepted accounting principles. Reference should be made to the consolidated financial statements and related notes included in Smith-Midland Corporation's Annual Report on Form 10-KSB for the year ended December 31, 2004.

In the opinion of the management of Smith-Midland Corporation (the Company), the accompanying financial statements reflect all adjustments of a normal recurring nature, which were necessary for a fair presentation of the Company's results of operations for the three and nine months ended September 30, 2005 and 2004.

The results disclosed in the consolidated statements of operations are not necessarily indicative of the results to be expected for any future periods.

Principles of Consolidation

The Company's accompanying consolidated financial statements include the accounts of Smith-Midland Corporation, a Delaware corporation, and its wholly owned subsidiaries: Smith-Midland Corporation, a Virginia corporation; Easi-Set Industries, Inc., a Virginia corporation; Smith-Carolina Corporation, a North Carolina corporation; Concrete Safety Systems, Inc., a Virginia corporation; and Midland Advertising & Design, Inc., a Virginia corporation. All significant inter-company accounts and transactions have been eliminated in consolidation.

Reclassifications

Certain reclassifications have been made to the prior years' consolidated financial statements to conform to the 2005 presentation.

Inventories

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Inventories are stated at the lower of cost or market, using the first-in, first-out (FIFO) method.

Property and Equipment

Property and equipment, net is stated at depreciated cost. Expenditures for ordinary maintenance and repairs are charged to expense as incurred. Costs of betterments, renewals, and major replacements are capitalized. At the time properties are retired or otherwise disposed of, the related cost and allowance for depreciation are eliminated from the accounts and any gain or loss on disposition is reflected in income.

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Depreciation is computed using the straight-line method over the following estimated useful lives:

	Years
	————
Buildings	10-33
Trucks and automotive equipment	3-10
Shop machinery and equipment	3-10
Land improvements	10-30
Office equipment	3-10

Income Taxes

The provision for income taxes is based on earnings reported in the financial statements. A deferred income tax asset or liability is determined by applying currently enacted tax laws and rates to the expected reversal of the cumulative temporary differences between the carrying value of assets and liabilities for financial statement and income tax purposes. Deferred income tax expense is measured by the change in the deferred income tax asset or liability during the year.

The provision for federal income taxes for the three and nine months ending September 30, 2005 differs from enacted rates primarily due to utilization of net operating loss carry forwards of approximately \$1 million as of December 31, 2004, which were previously reserved with a valuation allowance.

Revenue Recognition

The Company primarily recognizes revenue on the sale of its standard precast concrete products at shipment date, including revenue derived from any projects to be completed under short-term contracts. Installation services for precast concrete products, leasing and royalties are recognized as revenue as they are earned on an accrual basis. Licensing fees are recognized under the accrual method unless collectibility is in doubt, in which event revenue is recognized as cash is received. Certain sales of soundwall, architectural precast panels and Slenderwall concrete products are recognized upon completion of production and customer site inspections. Provisions for estimated losses on contracts are made in the period in which such losses are determined.

Estimates

The preparation of these financial statements requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses. Actual results could differ from those estimates.

Table of Contents**Earnings Per Share**

Basic earnings per share are computed by dividing income available to common stockholders by the weighted average number of common shares outstanding for the period. Diluted earnings per share reflect the potential dilutive effect of securities that could share in earnings of an entity. Earnings per share was calculated as follows:

	Three months ended September 30,	
	2005	2004
Net income	\$ 230,677	\$ 273,306
Average shares outstanding for basic earnings per share	4,533,158	4,449,548
Dilutive effect of stock options and warrants	225,842	78,000
Average Shares Outstanding for Diluted Earnings per Share	4,759,000	4,527,548
Basic earnings per share	\$.05	\$.06
Diluted earnings per share	\$.05	\$.06

	Nine months ended September 30,	
	2005	2004
Net income	\$ 1,158,073	\$ 657,100
Average shares outstanding for basic earnings per share	4,461,185	4,449,548
Dilutive effect of stock options and warrants	146,468	78,000
Average Shares Outstanding for Diluted Earnings per Share	4,607,653	4,527,548
Basic earnings per share	\$.26	\$.15
Diluted earnings per share	\$.25	\$.15

Stock Options

The Company has elected to use the intrinsic value method of accounting as prescribed by Accounting Principles Board Opinion No. 25, Accounting for Stock Issued to Employees, and related Interpretations, for stock options granted to the Company's employees. This method does not result in the recognition of compensation expense when employee stock options are granted if the exercise price of the option equals or exceeds the fair market value of the stock at the date of grant.

The following table summarizes options outstanding:

Three Months Ended
September 30, 2005

	Shares	Weighted Average Exercise Price
Options outstanding at beginning of period	472,158	\$.89
Granted on September 30, 2005	130,971	2.52
Forfeited		
Exercised	(102,517)	.94
Options outstanding at end of period	500,612	\$ 1.31
Options exercisable at end of period	312,975	\$.89

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Statement of Financial Accounting Standards No. 123, Accounting for Stock-Based Compensation (SFAS 123), establishes alternative methods of accounting for stock options. If the fair value method prescribed by SFAS 123 had been adopted, there would have been no proforma effect on earnings from stock-based employee compensation expense determined under fair value method for the three and nine months ended September 30, 2005 and 2004, respectively.

Item 2. Management's Discussion and Analysis or Plan of Operation

General

The Company generates revenues primarily from the sale, licensing, leasing, shipping and installation of precast concrete products for the highway, construction, utility and farming industries. The Company's operating strategy has involved producing innovative and proprietary products, including Slenderwall, a patented, lightweight, energy efficient concrete and steel exterior wall panel for use in building construction; J-J Hooks Highway Safety Barrier, a patented, positive-connected highway safety barrier; Sierra Wall, a sound barrier primarily for roadside use; and Easi-Set® transportable concrete buildings. In addition, the Company produces custom order precast concrete products with various architectural surfaces, typically used in commercial building construction, as well as utility vaults, farm products such as cattleguards, and water and feed troughs.

This Form 10-QSB contains forward-looking statements, which involve risks and uncertainties. The Company's actual results may differ significantly from the results discussed in the forward-looking statements and the results for the three and nine months ended September 30, 2005 are not necessarily indicative of the results for the Company's operations for the year ending December 31, 2005. Factors that might cause such a difference include, but are not limited to, product demand, the impact of competitive products and pricing, capacity and supply constraints or difficulties, general business and economic conditions, the effect of the Company's accounting policies and other risks detailed in the Company's Annual Report on Form 10-KSB and other filings with the Securities and Exchange Commission.

Results of Operations

Three months ended September 30, 2005 compared to the three months ended September 30, 2004

For the three months ended September 30, 2005, the Company had total revenue of \$6,528,905 compared to total revenue of \$5,686,567 for the three months ended September 30, 2004, an increase of \$842,338, or 15%. Total product sales were \$5,022,657 for the three months ended September 30, 2005 compared to \$3,676,684 for the same period in 2004, an increase of \$1,345,973, or 37%. Slenderwall production and sales increased significantly during the third quarter, resulting from growing customer acceptance and continued success in expanding on the applications and capabilities of Slenderwall. The Company began production in July 2005 on one of three large soundwall projects, which are expected to be completed through the first quarter of 2006. Barrier sales were still strong through the third quarter of 2005, yet were lower than in 2004, because of the additional barrier volume from the Republican National Convention Project

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in 2004. Shipping and installation revenue was \$1,059,737 for the three months ended September 30, 2005 compared to \$1,663,353 for the same period in 2004, a decrease of \$603,616, or 36%. The decrease was primarily related to the increased shipping and installation activity in 2004 related to the Republican National Convention Project. Normal shipping and installation activity is highly cyclical in nature and fluctuates based on our customers' schedules. This normal activity remained mostly unchanged for the third quarter 2005 as compared to the same period of 2004. Royalty revenue was \$309,101 for the three months ended September 30, 2005 compared to \$257,820 for the same period in 2004, an increase of \$51,281, or 20%. The increase was due primarily to three new licensees added during the first half of 2005 and one new licensee added during the third quarter of 2005, plus increased production volumes from licensees, especially licensees located in Florida and Texas. Rental revenue was \$137,410 for the three months ended September 30, 2005 compared to \$88,710 for the same period in 2004, an increase of \$48,700, or 55%.

Total cost of goods sold for the three months ended September 30, 2005 was \$5,059,418, an increase of \$675,078, or 15%, from \$4,384,340 for the three months ended September 30, 2004. Cost of goods sold as a percentage of total revenue stayed flat at 77% for the three months ended September 30, 2005 as compared to same period in 2004. Raw material costs increased slightly, mostly due to fuel surcharges from vendors combined with increased freight-in costs related to getting the materials to the plant. The increased raw materials costs were offset by decreases in direct labor related to improved management and controls of overtime. Also, included in cost of goods sold were shipping and installation expenses of \$1,195,282 for the three months ended September 30, 2005 and \$1,255,576 for the same period in 2004, a decrease of \$60,294, or 5%. The smaller decrease in these expenses as compared to the decrease in the related revenues resulted mostly from increased fuel costs associated with operating Company trucks combined with various add-ons and change orders from installation activity related to architectural projects. The Company also made significant repairs and performed significant maintenance to its existing fleet of vehicles and trailers, in preparation for expected volume increases.

For the three months ended September 30, 2005, the Company's general and administrative expenses decreased \$30,308, or 4%, to \$681,515 from \$711,823 during the same period in 2004. The decrease was primarily due to the Company's focus on cutting costs across various areas of the Company. The greatest reductions were realized in business insurance and bad debt expense, offset by additional employee-related costs.

Selling expenses for the three months ended September 30, 2005 increased \$34,610, or 12%, to \$326,863 from \$292,252 for the three months ended September 30, 2004, primarily due to management's decision to apply more resources to selling activities, including advertising. The Company also realized increased commissions expense due to increased sales volume.

The Company's operating income for the three months ended September 30, 2005 was \$461,109 compared to \$298,152 for the three months ended September 30, 2004, an increase of \$162,957. The increased operating income was primarily the result of increased production volume, especially for Slenderwall and soundwall related projects. Improved management of direct labor and overtime also contributed to the increased operating income.

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Interest expense was \$88,338 for the three months ended September 30, 2005, compared to \$77,708 for the three months ended September 30, 2004. The increase of \$10,630, or 14%, was due primarily to the addition of two new notes for the purchase of equipment, plus the effect of higher interest rates in 2005 compared to 2004.

Net income was \$230,677 for the three months ended September 30, 2005, compared to net income of \$273,306 for the same period in 2004. The basic and diluted net income per share for the current three-month period was \$.05 compared to basic and diluted net income per share of .06 for the three months ended September 30, 2004.

Nine months ended September 30, 2005 compared to the nine months ended September 30, 2004

For the nine months ended September 30, 2005, the Company had total revenue of \$17,431,560 compared to total revenue of \$16,348,935 for the nine months ended September 30, 2004, an increase of \$1,082,625, or 7%. Total product sales were \$13,066,305 for the nine months ended September 30, 2005 compared to \$12,467,532 for the same period in 2004, an increase of \$598,773, or 5%. The increase primarily related to increased production volume in the Company's Slenderwall and soundwall product categories. Through the third quarter 2005, Slenderwall production had increased 185% as compared to the same period in 2004. Soundwall production was up 30% for same period. The Company expects Slenderwall and soundwall production to continue to be strong in the near future. Rental revenue was \$1,025,046 for the nine months ended September 30, 2005 compared to \$247,970 for the same period in 2004, an increase of \$777,076, or 313%. The significant increase in barrier rental revenue related to the Presidential Inauguration in January 2005 in Washington, DC. Shipping and installation revenue was \$2,510,330 for the nine months ended September 30, 2005 compared to \$3,108,742 for the same period in 2004, a decrease of \$598,412, or 19%. The decrease was primarily related to the increased shipping and installation activity in 2004 related to the Republican National Convention Project. Normal shipping and installation activity is highly cyclical in nature and fluctuates based on our customers' schedules. This normal activity slightly decreased over the nine months ended September 30, 2005, however, was offset by the Inauguration activity in January 2005. Royalty revenue was \$829,879 for the nine months ended September 30, 2005 compared to \$524,691 for the same period in 2004, an increase of \$305,188, or 58%. The increase was due primarily to three new licensees added during the first half of the year and one new licensee added during the third quarter of 2005, plus increased production volumes from licensees, especially licensees located in Florida and Texas.

Total cost of goods sold for the nine months ended September 30, 2005 was \$12,767,190, an increase of \$454,692, or 4%, from \$12,312,498 for the nine months ended September 30, 2004. Cost of goods sold as a percentage of total revenue decreased from 75% for the nine months ended September 30, 2004 to 73% for the nine months ended September 30, 2005. The majority of the decrease in cost of goods sold as a percentage of total revenue was due to improved margins from the large barrier rental project, which occurred in January 2005. These improvements were partially offset by extra labor costs and increased material costs related to complex forming of elaborate architectural detail related to one large project that was in production during the first half of the year. In addition, included in cost of goods sold is a reduction of approximately \$288,000 related to the capitalization of concrete rental barriers not previously counted and recognized. Raw

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material costs also increased slightly, mostly due to fuel surcharges from vendors combined with the increased freight-in costs related to getting the materials to the plant. Also, included in cost of goods sold were shipping and installation expenses of \$2,991,343 for the nine months ended September 30, 2005 and \$3,015,276 for the same period in 2004, a decrease of \$23,933, or 1%, related primarily to the decrease in shipping and installation activity related to architectural projects offset with the higher profit margins from a special project in January 2005.

For the nine months ended September 30, 2005, the Company's general and administrative expenses decreased \$142,110, or 7%, to \$2,017,312 from \$2,159,422 during the same period in 2004. The decrease was primarily due to the Company's focus on cutting costs across various areas of the Company. Reductions were realized in business insurance and bad debt expense. Also, legal fees were significantly lower after the closure of some significant disputes during the first half of 2004, offset by additional employee-related costs.

Selling expenses for the nine months ended September 30, 2005 increased \$29,995, or 3%, to \$1,068,252 from \$1,038,257 for the nine months ended September 30, 2004, primarily due to management's decision during the third quarter 2005 to apply more resources to selling activities, including advertising. The Company also realized increased commissions expense due to increased sales volume during the third quarter 2005.

The Company's operating income for the nine months ended September 30, 2005 was \$1,578,806 compared to \$838,758 for the nine months ended September 30, 2004, an improvement of \$740,048, or 88%. The increased operating income was primarily the result of increased production activity for Slenderwall and soundwall products through September 30, 2005 and increased sales for security and highway barrier related work during the first quarter 2005. Increased royalty activity also contributed to the improvement.

Interest expense was \$249,770 for the nine months ended September 30, 2005, compared to \$237,102 for the nine months ended September 30, 2004. The increase of \$12,668, or 5%, was due primarily to the addition of three new notes for the purchase of equipment, plus the effect of higher interest rates in 2005 compared to 2004, offset slightly by decreased principal balances, after seven term loans were paid in full between June 30, 2004 and 2005.

Net income was \$1,158,073 for the nine months ended September 30, 2005, compared to a net income of \$657,100 for the same period in 2004. The basic and diluted net income per share for the current nine-month period was \$.26 and \$.25, respectively, compared to basic and diluted net income per share of \$.15 for the nine months ended September 30, 2004.

Liquidity and Capital Resources

The Company has financed its capital expenditures, operating requirements and growth to date primarily with proceeds from operations and bank and other borrowings. The Company had \$4,397,155 of contractual obligations at September 30, 2005, of which \$510,394 was scheduled to mature within twelve months.

Table of Contents**Schedule of Contractual Obligations:**

Payments due by period

	Total	Less than 1 year	1-3 years	4-5 years	After 5 years
Long-term debt and capital leases	\$ 4,347,406	\$ 480,584	\$ 858,929	\$ 416,004	\$ 2,591,889
Operating leases	49,749	29,810	10,876	9,063	0
Total contractual cash obligations	\$ 4,397,155	\$ 510,394	\$ 869,805	\$ 425,067	\$ 2,591,889

The Company has a \$3,372,676 note with UPS Capital, formerly First International Bank, headquartered in Hartford, Connecticut. The note has an original term of twenty-three years beginning on June 25, 1998 with an interest rate of 1.5% above prime, secured by equipment and real estate. The loan is guaranteed in part by the U.S. Department of Agriculture Rural Business-Cooperative Service's loan guarantee. Under the terms of the note, UPS Capital will permit chattel mortgages on purchased equipment not to exceed \$200,000 on an annual basis so long as the Company is not in default.

As September 30, 2005, the Company had cash totaling \$807,512 compared to cash totaling \$499,744 at December 31, 2004. During the period, financing activities provided \$55,535 (net) and the Company used \$602,234 in its investing activities, primarily for the purchase of equipment and rental barriers. The Company's operating activities provided cash of \$854,468 (net), primarily due to improved profitability from operations, especially in the rental barrier market. Increased royalty revenues and sales and production volumes also contributed to the positive cash flow. The Company used a portion of the additional cash flow to pay down aged accounts payable, which has allowed the Company to take all purchase discounts and eliminate interest paid to suppliers on overdue accounts payable.

Capital spending totaled \$644,888 for the nine months ended September 30, 2005 versus \$185,262 in the comparable period of the prior year, primarily for the purchase of equipment and rental barriers, plus some plant modernization. The Company also increased its stock of shipping and storage racks for both soundwall and Slenderwall product, in preparation for increased volume in these product lines. The Company plans to make additional capital expenditures of approximately \$150,000 for routine equipment replacement, productivity improvements and plant upgrades that are planned for the remainder of 2005 based on the achievement of operating goals and the availability of funds.

As a result of the Company's debt burden, the Company is especially sensitive to changes in the prevailing interest rates. Increases in such interest rates may materially and adversely affect the Company's ability to finance its operations either by increasing the Company's cost to service its current debt, or by creating a more burdensome refinancing environment.

The Company's cash flow from operations is affected by production schedules set by contractors, which generally provide for payment 45 to 75 days after the products are produced. This payment schedule has resulted in liquidity problems for the Company because it must bear the cost of production for its products before it receives payment. Although no assurance can be given, the Company believes that anticipated cash flow from operations with adequate project management on jobs would be sufficient to finance the Company's operations for at least the next 12 months.

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Significant Accounting Policies and Estimates

The Company's significant accounting policies are more fully described in its Summary of Accounting Policies to the Company's annual consolidated financial statements. The preparation of financial statements in conformity with accounting principles generally accepted within the United States requires management to make estimates and assumptions in certain circumstances that affect amounts reported in the accompanying financial statements and related notes. In preparing these financial statements, management has made its best estimates and judgments of certain amounts included in the financial statements, giving due consideration to materiality. The Company does not believe there is a great likelihood that materially different amounts would be reported related to the accounting policies described below, however, application of these accounting policies involves the exercise of judgment and the use of assumptions as to future uncertainties and as a result, actual results could differ from these estimates.

The Company evaluates the adequacy of its allowance for doubtful accounts at the end of each quarter. In performing this evaluation, the Company analyzes the payment history of its significant past due accounts, subsequent cash collections on these accounts and comparative accounts receivable aging statistics. Based on this information, along with consideration of the general strength of the economy, the Company develops what it considers to be a reasonable estimate of the uncollectible amounts included in accounts receivable. This estimate involves significant judgment by the management of the Company. Actual uncollectible amounts may differ from the Company's estimate.

The Company recognizes revenue on the sale of its standard precast concrete products at shipment date, including revenue derived from any projects to be completed under short-term contracts. Installation services for precast concrete products, leasing and royalties are recognized as revenue as they are earned on an accrual basis. Licensing fees are recognized under the accrual method unless collectibility is in doubt, in which event revenue is recognized as cash is received. Certain sales of Soundwall and Slenderwall concrete products are recognized upon completion of units produced under long-term contracts. When necessary, provisions for estimated losses on these contracts are made in the period in which such losses are determined. Changes in job performance, conditions and contract settlements that affect profit are recognized in the period in which the changes occur. Unbilled trade accounts receivable represents revenue earned on units produced and not yet billed.

The Company has elected to use the intrinsic value method of accounting as prescribed by Accounting Principles Board Opinion No. 25, Accounting for Stock Issued to Employees, and related Interpretations, for stock options granted to the Company's employees. This method does not result in the recognition of compensation expense when employee stock options are granted if the exercise price of the option equals or exceeds the fair market value of the stock at the date of grant. Statement of Financial Accounting Standards No. 123, Accounting for Stock-Based Compensation (SFAS 123), establishes alternative methods of accounting for stock options. The Company's Form 10-KSB for the period ended December 31, 2004 and the footnote entitled stock options in this Form 10-QSB shows the effect on earnings if the fair value method prescribed by SFAS 123 had been adopted.

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SFAS No. 123 (Revised 2004), Share-Based Payment, issued in December 2004, is a revision of FASB Statement 123, Accounting for Stock-Based Compensation and supersedes APB Opinion No. 25, Accounting for Stock Issued to Employees, and its related implementation guidance. The Statement focuses primarily on accounting for transactions in which the entity obtains employee services in share-based payment transactions. SFAS No. 123 (Revised 2004) requires an entity to measure the cost of employee services received in exchange for an award of equity instruments based on the grant-date fair value of the award (with limited exceptions). That cost will be recognized over the period during which an employee is required to provide service in exchange for the award. This statement is effective as of the beginning of the annual reporting period that begins after December 15, 2005.

Other Comments

The Company services the construction industry primarily in areas of the United States where construction activity is inhibited by adverse weather during the winter. As a result, the Company traditionally experiences reduced revenues from December through March and realizes the substantial part of its revenues during the other months of the year. The Company typically experiences lower profits, or losses, during the winter months, and must have sufficient working capital to fund its operations at a reduced level until spring construction season. The failure to generate or obtain sufficient working capital during the winter may have a material adverse effect on the Company.

As of November 10, 2005 the Company's unaudited production backlog for booked orders was approximately \$14,800,000 as compared to approximately \$7,500,000 at the same time in 2004. This significant increase was the result of improved economic conditions in the area and management's decision to apply more resources to selling and marketing. The majority of the projects relating to the backlog as of November 10, 2005 are scheduled to be produced and erected in the last quarter of 2005 and first half of 2006. The Company has also seen significant increases in the demand and sale of its Slenderwall and soundwall product lines with current production backlog scheduled through the third quarter 2006. Also, due to the lighter weight characteristics of the Slenderwall, the Company has been able to considerably expand its service area into regions that previously could not be reached economically in the past.

The Company also enjoys a certain amount of regularly occurring repeat customer business, which should be considered in addition to the contracted and ordered production backlog described above. These orders typically have a quick turn around and represent a significant portion of the Company's inventoried standard products, such as highway safety barrier, utility and farm products.

However, the risk still exists that these improved economic conditions may not continue and future sales levels may be adversely affected.

During the nine months ended September 30, 2005, increased fuel costs caused the costs of shipping for both raw materials and produced goods to increase during the period. Additionally, various vendors and suppliers began charging fuel surcharges, which increased the costs of some raw materials. It is expected that these increased fuel costs and surcharges may affect the gross profit for projects that went under contract in 2004 and are scheduled for production later in 2005. During the three months ended September 30, 2005, the Company was able to offset some of these fuel surcharges with fuel surcharge revenues, which were collected in October 2005.

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Management believes that the Company's operations have not been materially affected by inflation.

Item 3. Controls and Procedures

During the course of the fiscal 2004 audit, BDO Seidman, LLP (BDO), the Company's independent registered public accounting firm, advised management of deficiencies with respect to the documentation of job costs and the ability to identify on an on-going manner, the amount of profit or loss to be recognized on long-term contracts. The Company is currently developing procedures to address these deficiencies, including implementation of new software and modification of specifically identified manual processes.

On July 1, 2005, the Company began the first phase of implementing a new fully integrated accounting and business management system. The system will allow the Company to better estimate, monitor and account for profit and loss by project, as well as provide stronger controls across most areas of the business. The first phase, which was completed October 31, 2005, involved the implementation of all primary accounting functions for the Company and three of its subsidiaries: Easi-Set Industries, Concrete Safety Systems, and Midland Advertising & Design. Implementation of the other subsidiaries has begun and is expected to be completed in 2006.

Our principal executive and financial officers have concluded, based on their evaluation as of the end of the period covered by this Form 10-QSB, that our disclosure controls and procedures under Rule 13a-15 of the Securities Exchange Act of 1934 are effective to ensure that information we are required to disclose in the reports we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and include controls and procedures designed to ensure that information we are required to disclose in such reports is accumulated and communicated to management, including our principal executive and financial officer, as appropriate to allow timely decisions regarding required disclosure.

PART II - Other Information

Item 1. Legal Proceedings.

Reference is made to Item 3 of the Company's Annual Report on Form 10-KSB for the year ended December 31, 2004 for information as to reported legal proceedings.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds. None.

Item 3. Defaults Upon Senior Securities. None.

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

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On August 18, 2005, the Company held its Annual Meeting of Stockholders. The Stockholders voted on and approved the following:

1. The election of the following individuals to serve as directors until the next annual meeting or until their successors are duly elected and qualified:

<u>Name</u>	<u>Shares Voted to</u>	
	<u>Shares Voted</u>	<u>Withhold</u>
	<u>For</u>	<u>Authority</u>
Rodney I. Smith	4,084,953	136,600
Ashley B. Smith	4,085,853	135,700
Wesley A. Taylor	4,205,453	16,100
Andrew G. Kavounis	4,204,953	16,600

2. The ratification of the selection by the Board of Directors of BDO Seidman, LLP as independent auditors for the year ending December 31, 2005.

<u>For</u>	<u>Against</u>	<u>Abstain</u>
4,214,760	5,293	1,500

Item 5. Other Information. None.

Item 6. Exhibits.

The following exhibits are filed herewith:

<u>Exhibit No.</u>	
31.1	Section 302 Certification of Chief Executive Officer
31.2	Section 302 Certification of Chief Financial Officer
32.1	Section 906 Certification of Chief Executive Officer
32.2	Section 906 Certification of Chief Financial Officer

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SIGNATURES

In accordance with the requirements of the Exchange Act, the registrant caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

SMITH-MIDLAND CORPORATION

Date: November 14, 2005

By: /s/ Rodney I. Smith

Rodney I. Smith
Chairman of the Board,
Chief Executive Officer and President
(Principal Executive Officer)

Date: November 14, 2005

By: /s/ Lawrence R. Crews

Lawrence R. Crews
Chief Financial Officer
(Principal Financial Officer)

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compensation objectives and philosophy, its process for determining executive compensation and a description of the elements of compensation.

SUMMARY COMPENSATION TABLE

The Summary Compensation Table on page 28 represents all fiscal year 2009 elements of compensation for Ball's NEOs, including:

Base salary earned;

Awards earned under the Annual Incentive Compensation Plan for 2009 performance;

Awards earned under the Long-Term Cash Incentive Plan ("LTCIP") for the three-year performance period ended in 2009;

Fair value of restricted stock and performance contingent restricted stock unit awards granted in 2009, calculated in accordance with FASB ASC Topic 718; and

Fair value of stock option and stock appreciation rights awards granted in 2009, calculated in accordance with FASB ASC Topic 718.

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The 2009 payout factors used to determine the amounts earned for the Annual Incentive Compensation Plan, Acquisition-Related Special Incentive Plan and LTCIP for the CEO, CFO and the other NEOs are provided in the "Performance Measures Summary" section on page 26 of the CD&A.

In addition to these elements of compensation, the table also presents the increase in 2009 in the value of pensions payable at age 65 for the NEOs as well as above-market earnings associated with non-qualified deferred compensation. Certain of the Corporation's predecessor deferred compensation plans provide for an interest rate that is equal to the Moody's Seasoned Corporate Bond Index and in some plans, an interest rate that is 5 percentage points higher than the Moody's Seasoned Corporate Bond Index, and in others, a fixed interest rate equal to 9 percent. No additional deferrals are permitted into these plans. Any earnings credited to accounts within plans that provide the Moody's rate plus 5 percentage points and/or the 9 percent fixed interest that is in excess of above-market earnings that would have been credited at a rate that is 120 percent of the applicable federal long-term rate have been classified as above-market earnings on deferred compensation.

The All Other Compensation column represents the sum of the values of:

Perquisites and other personal benefits;

Corporation contributions to defined contribution plans or deferred compensation plans;

Corporation-paid insurance premiums;

Discounted securities purchases pursuant to the Corporation's broad-based Employee Stock Purchase Plan ("ESPP"); and

Tax reimbursements made by the Corporation.

The individual values are disclosed in the All Other Compensation Table that follows the Summary Compensation Table.

Details regarding post-termination compensation are discussed in the section entitled "Other Potential Post-Termination Employment Benefits" on page 39.

Summary Compensation Table

Name & Principal Position	Year	Salary (\$)	Stock Awards (\$) ⁽¹⁾	Option Awards (\$) ⁽²⁾	Non-Equity Incentive Plan Compensation (\$) ⁽³⁾	Change in Pension Value and Non-Qualified Deferred Compensation Earnings (\$) ⁽⁴⁾	All Other Compensation (\$) ⁽⁵⁾	Total (\$)
R. David Hoover	2009	\$ 1,130,000	\$ 2,244,480	\$ 2,130,000	\$ 3,215,872	\$ 824,558	\$ 70,365	\$ 9,615,275
Chairman, President and CEO	2008	\$ 1,100,000	\$ 3,394,953	\$ 1,577,168	\$ 2,101,565	\$ 805,091	\$ 92,399	\$ 9,071,176
	2007	\$ 1,030,000	\$ 2,466,000	\$ 1,514,700	\$ 2,577,197	\$ 747,588	\$ 84,708	\$ 8,420,193
Raymond J. Seabrook⁽⁶⁾	2009	\$ 490,500	\$ 581,160	\$ 681,600	\$ 802,136	\$ 172,491	\$ 51,586	\$ 2,779,473
EVP and CFO	2008	\$ 476,000	\$ 1,002,200	\$ 410,320	\$ 548,865	\$ 125,504	\$ 49,748	\$ 2,612,637
	2007	\$ 451,000	\$ 665,820	\$ 398,310	\$ 696,686	\$ 75,492	\$ 63,484	\$ 2,350,792
John R. Friedery⁽⁷⁾	2009	\$ 452,000	\$ 340,680	\$ 394,050	\$ 626,185	\$ 133,890	\$ 45,767	\$ 1,992,572
SVP, Ball Corporation;	2008	\$ 439,000	\$ 551,210	\$ 224,394	\$ 402,130	\$ 96,262	\$ 55,306	\$ 1,768,302

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President, Metal Beverage Packaging, Americas and Asia	2007	\$	426,000	\$	665,820	\$	409,530	\$	520,035	\$	68,460	\$	46,859	\$	2,136,704
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