

LIFEWAY FOODS INC
Form 10-Q/A
April 10, 2017

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, DC 20549

FORM 10-Q/A

AMENDMENT NO. 2

(Mark One)

QUARTERLY REPORT UNDER SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended: March 31, 2016

TRANSITION REPORT UNDER SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ to _____

Commission File Number: 000-17363

LIFEWAY FOODS, INC.

(Exact Name of Registrant as Specified in its Charter)

Illinois

36-3442829

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*(State or Other Jurisdiction of (I.R.S. Employer
Incorporation or Organization) Identification No.)*

6431 West Oakton, Morton Grove, IL 60053

(Address of Principal Executive Offices, Zip Code)

(847) 967-1010

(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 No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data file required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes No

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

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

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

As of April 18, 2016, 16,158,858 shares of the registrant's common stock, no par value, were outstanding.

LIFEWAY FOODS, INC.

EXPLANATORY NOTE

On November 4, 2016, the Audit Committee of the Board of Directors (the "Board") of Lifeway Foods, Inc. (the "Company"), upon the recommendation of management, determined that the consolidated financial statements (the "Previously Issued Financial Statements") presented in the Company's reports for the annual period ended December 31, 2015, and the reports of the independent registered public accounting firm thereon; the related quarterly periods for the annual period ended December 31, 2015; and the quarterly periods ended March 31 and June 30, 2016 as set forth in the Company's previous filings with the Securities and Exchange Commission (the "SEC") (the "Revised Periods") should no longer be relied upon as a result of the following classification errors:

During fiscal year 2015 and continuing through the first two quarters of 2016 certain indirect manufacturing overhead costs were classified as an element of General and Administrative (G&A) expenses in our Statements of Income and Comprehensive Income. These indirect manufacturing overhead costs are more appropriately classified as an element of Cost of Goods Sold.

A description of the restatement is presented in Note 1, under the caption Restatements of prior period financial statements. The classification errors described above have no impact on the Company's previously-reported net sales, income from operations, net income, or basic and diluted earnings per common share presented in its Consolidated Statements of Income and Comprehensive Income, nor does it have a material effect on the Company's previously-reported Consolidated Balance Sheets, Consolidated Statements of Cash Flows, or Consolidated Statements of Changes in Stockholders' Equity.

This Amendment No. 2 on Form 10-Q/A ("Amendment No. 2") amends the Company's Form 10-Q (the "Originally Filed 10-Q") and Form 10-Q/A (the "Amendment No. 1") filed with the SEC on May 10, 2016 and August 15, 2016, respectively, solely as described herein. In addition to this Explanatory Note, Amendment No. 2 reflects changes to the Consolidated Balance Sheets, Consolidated Statements of Income and Comprehensive Income and Consolidated Statements of Cash Flows and the following notes to the consolidated financial statements: Note 1, Basis of presentation and restatements of prior periods; Note 4, Investments; and Note 11, Fair value measurements. In addition, in connection with the restatement, this Amendment No. 2 reflects the revisions to Management's Discussion and Analysis of Financial Condition and Results of Operations in Item 2 of Part I. Otherwise, Amendment No. 1 is restated herein in its entirety and no other information in the Originally Filed 10-Q or Amendment No. 1 is amended hereby. Disclosures and forward-looking information in this Amendment No. 2 continue to speak as of the date of the Originally Filed Form 10-Q, and do not reflect events occurring after the filing of the Originally Filed Form 10-Q. Accordingly, this Amendment No. 2 should be read in conjunction with our other filings made with the SEC after the filing of the Originally Filed Form 10-Q, including any amendments to those filings.

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ITEM 1. FINANCIAL STATEMENTS.**LIFEWAY FOODS, INC. AND SUBSIDIARIES****Consolidated Balance Sheets****March 31, 2016 and December 31, 2015***(In thousands)*

	March 31,	December
	2016	31,
	(Unaudited)	2015
	(Restated)	
Current assets		
Cash and cash equivalents	\$ 3,786	\$ 5,646
Investments, at fair value	2,359	2,091
Certificates of deposits in financial institutions	150	513
Inventories	9,001	7,664
Accounts receivable, net of allowance for doubtful accounts and discounts & allowances of \$1,600 and \$1,800 at March 31, 2016 and December 31, 2015 respectively	10,457	9,886
Prepaid expenses and other current assets	287	201
Deferred income taxes	532	556
Refundable income taxes	682	449
Total current assets	27,254	27,006
Property and equipment, net	21,080	21,375
Intangible assets		
Goodwill & indefinite-lived intangibles	14,068	14,068
Other intangible assets, net	2,166	2,344
Total intangible assets	16,234	16,412
Other Assets	125	125
Total assets	\$ 64,693	\$ 64,918
Current liabilities		
Current maturities of notes payable	\$ 840	\$ 840
Accounts payable	7,447	8,393
Accrued expenses	1,949	1,538
Accrued income taxes	-	52

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Total current liabilities	10,236	10,823
Notes payable	6,909	7,119
Deferred income taxes	1,719	1,719
Total liabilities	18,864	19,661
Stockholders' equity		
Common stock, no par value; 40,000 shares authorized; 17,274, shares issued; 16,171 and 16,210 shares outstanding at March 31, 2016 and December 31, 2015 respectively	6,509	6,509
Paid-in-capital	2,054	2,033
Treasury stock, at cost	(10,170)	(9,730)
Retained earnings	47,471	46,516
Accumulated other comprehensive loss, net of taxes	(35)	(71)
Total stockholders' equity	45,829	45,257
Total liabilities and stockholders' equity	\$ 64,693	\$ 64,918

See accompanying notes to consolidated financial statements

LIFEWAY FOODS, INC. AND SUBSIDIARIES**Consolidated Statements of Income and Comprehensive Income****For the three months ended March 31, 2016 and 2015***(Unaudited)**(In thousands, except per share data)*

	2016	2015
	(Restated)	(Restated)
Gross Sales	\$ 37,030	\$ 33,103
Less: discounts and allowances	(4,460)	(3,481)
Net sales	32,570	29,622
Cost of goods sold	23,239	21,106
Depreciation expense	631	591
Total cost of goods sold	23,870	21,697
Gross profit	8,700	7,925
Selling expenses	2,964	3,302
General and administrative	3,946	3,034
Amortization expense	176	179
Total operating expenses	7,086	6,515
Income from operations	1,614	1,410
Other income (expense):		
Interest expense	(58)	(65)
Loss on sale of investments, net reclassified from OCI	(12)	(5)
Gain on sale of equipment	–	36
Impairment of investments	–	(180)
Other income (expense), net	17	108
Total other income (expense)	(53)	(106)
Income before provision for income taxes	1,561	1,304
Provision for income taxes	606	650
Net income	\$ 955	\$ 654
Basic and diluted earnings per common share	\$ 0.06	\$ 0.04
Weighted average number of shares outstanding	16,189	16,346

COMPREHENSIVE INCOME

Net income	\$ 955	\$ 654
Other comprehensive income (loss), net of tax:		
Unrealized gains (losses) on investments, net of \$(27) and \$23 of taxes	43	(34)
Reclassifications to earnings:		
Other than temporary impairment of investments, net of \$(76) of taxes	–	103
Realized gains (losses) on investments, net of \$5 and \$2 of taxes	(7)	(3)
Comprehensive income	\$ 991	\$ 720

See accompanying notes to consolidated financial statements

LIFEWAY FOODS, INC. AND SUBSIDIARIES**Consolidated Statements of Changes in Stockholders' Equity****For the Three Months Ended March 31, 2016 and 2015****(Unaudited)***(In thousands, except per share data)*

	Common Stock		In treasury		Paid In	Retained	Accumulated Other Comprehensive Income (Loss), Net of Tax	Total Stockholders' Equity
	Shares	\$	Shares	\$	Capital	Earnings		
Balances at January 1, 2015	17,274	\$6,509	(928)	\$(8,188)	\$2,033	\$44,544	\$ (198)	\$ 44,700
Other comprehensive income	—	—	—	—	—	—	66	66
Net income for the three months ended March 31, 2015	—	—	—	—	—	654	—	654
Balances at March 31, 2015	17,274	\$6,509	(928)	\$(8,188)	\$2,033	\$45,198	\$ (132)	\$ 45,420
Balances at January 1, 2016	17,274	\$6,509	(1,064)	\$(9,730)	\$2,033	\$46,516	\$ (71)	\$ 45,257
Other comprehensive income	—	—	—	—	—	—	36	36
Treasury stock purchased	—	—	(39)	(440)	—	—	—	(440)
Stock based compensation	—	—	—	—	21	—	—	21
Net income for the three months ended March 31, 2016	—	—	—	—	—	955	—	955
(Restated)								
Balances at March 31, 2016								
	17,274	\$6,509	(1,103)	\$(10,170)	\$2,054	\$47,471	\$ (35)	\$ 45,829

(Restated)

See accompanying notes to consolidated financial statements

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LIFEWAY FOODS, INC. AND SUBSIDIARIES**Consolidated Statements of Cash Flows****For the Three Months Ended March 31, 2016 and 2015****(Unaudited)***(In thousands, except per share data)*

	2016	2015
	(Restated)	
<u>Cash flows from operating activities:</u>		
Net income	\$ 955	\$654
Adjustments to reconcile net income to operating cash flow:		
Depreciation and amortization	807	770
Loss on sale of investments, net	12	5
Impairment of investments	–	180
Deferred income taxes	–	(196)
Stock based compensation	21	–
Gain on sale of equipment	–	(36)
(Increase) decrease in operating assets:		
Accounts receivable	(572)	(33)
Inventories	(1,337)	(513)
Refundable income taxes	(232)	1,050
Prepaid expenses and other current assets	(83)	180
Increase (decrease) in operating liabilities:		
Accounts payable	(946)	(1,464)
Accrued expenses	411	1,395
Income taxes payable	(52)	145
Net cash (used in) provided by operating activities	(1,016)	2,137
 Cash flows from investing activities:		
Purchases of investments	(373)	(1,005)