

ATAYAN CHRISTOPHER H
 Form 4
 July 22, 2009

FORM 4 UNITED STATES SECURITIES AND EXCHANGE COMMISSION
 Washington, D.C. 20549

OMB APPROVAL

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STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF SECURITIES

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

(Print or Type Responses)

1. Name and Address of Reporting Person *
 ATAYAN CHRISTOPHER H

2. Issuer Name and Ticker or Trading Symbol
 AMCON DISTRIBUTING CO [DIT]

5. Relationship of Reporting Person(s) to Issuer

(Check all applicable)

(Last) (First) (Middle)

3. Date of Earliest Transaction (Month/Day/Year)
 07/20/2009

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

C/O AMCON DISTRIBUTING COMPANY, 515 NORTH STATE STREET, SUITE 2650

(Street)

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

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

CHICAGO, IL 60654

(City) (State) (Zip)

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

| 1. Title of Security (Instr. 3) | 2. Transaction Date (Month/Day/Year) | 2A. Deemed Execution Date, if any (Month/Day/Year) | 3. Transaction Code (Instr. 8) | 4. Securities Acquired (A) or Disposed of (D) (Instr. 3, 4 and 5) | 5. Amount of Securities Beneficially Owned Following Reported Transaction(s) (Instr. 3 and 4) | 6. Ownership Form: Direct (D) or Indirect (I) (Instr. 4) | 7. Nature of Ownership (Instr. 4) |
|---|--------------------------------------|--|--------------------------------|---|---|--|-----------------------------------|
| | | | | (A) or (D) Price | | | |
| Common Stock, par value \$.01 per share | | | | | 118,019 | D | |

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

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SEC 1474 (9-02)

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

| 1. Title of Derivative Security (Instr. 3) | 2. Conversion or Exercise Price of Derivative Security | 3. Transaction Date (Month/Day/Year) | 3A. Deemed Execution Date, if any (Month/Day/Year) | 4. Transaction Code (Instr. 8) | 5. Number of Derivative Securities Acquired (A) or Disposed of (D) (Instr. 3, 4, and 5) | 6. Date Exercisable and Expiration Date (Month/Day/Year) | 7. Title and Amount Underlying Securities (Instr. 3 and 4) |
|---|--|--------------------------------------|--|--------------------------------|---|--|--|
| | | | | Code | V (A) (D) | Date Exercisable Expiration Date | Title Amount or Number of Shares |
| Series B Convertible Preferred Stock, par value \$.01 | \$ 24.65 ⁽¹⁾ | | | | | 10/08/2004 ⁽²⁾ | Common Stock 8,113 ⁽¹⁾ (3) |
| Employee Stock Option (right to buy) | \$ 18 ⁽¹⁾ | | | | | ⁽⁴⁾ 12/12/2016 | Common Stock 25,000 ⁽¹⁾ |
| Series A Convertible Preferred Stock, par value \$.01 | \$ 30.31 ⁽¹⁾ | 07/20/2009 | | P | 80,000 | 08/05/2004 ⁽⁵⁾ | Common Stock 82,400 |

Reporting Owners

| Reporting Owner Name / Address | Relationships | | | |
|---|---------------|-----------|------------------|-------|
| | Director | 10% Owner | Officer | Other |
| ATAYAN CHRISTOPHER H C/O AMCON DISTRIBUTING COMPANY 515 NORTH STATE STREET, SUITE 2650 CHICAGO, IL 60654 | X | X | CEO and Chairman | |

Signatures

Andrew C. Plummer, Attorney-in-Fact for Christopher H. Atayan
Date: 07/21/2009

^{**}Signature of Reporting Person Date

Explanation of Responses:

- * If the form is filed by more than one reporting person, see Instruction 4(b)(v).
- ** Intentional misstatements or omissions of facts constitute Federal Criminal Violations. See 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).

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- (1) The applicable conversion and exercise price and number of shares issuable on conversion or exercise are subject to anti-dilution adjustments.

The Issuer may redeem the Series B Convertible Preferred Stock, at its option, commencing on October 9, 2006 and, at the option of the holder, must be redeemed upon a change of control, as defined in the Series B Convertible Preferred Stock. The Series B Convertible Preferred Stock does not have an expiration date and will remain outstanding and convertible at the option of the holder until converted or redeemed.

- (2) Pursuant to an agreement among the Reporting Person, another individual (the "Second Participant"), and the holder of the Series B Convertible Preferred Stock, the holder has granted to the Reporting Person and the Second Participant a 20% participation interest in any capital gains realized by the holder from its investment in the Issuer, to be shared equally by the Reporting Person and the Second Participant. As a result of such participation interest, the Reporting Person may be deemed to have a pecuniary interest in such stock for purposes of 16a(2)(i) under the Securities Exchange Act of 1934. The Reporting Person does not possess the power to vote or dispose of the Series B Convertible Preferred Stock or to direct the vote or disposition of such stock, and disclaims any beneficial interest in such stock in excess of such pecuniary interest.
- (3) The stock option vests and is exercisable in three equal annual installments beginning December 12, 2007.

- (4) The Issuer may redeem the Series A Convertible Preferred Stock, at its option, commencing on June 17, 2006 and, at the option of the holder, must be redeemed upon a change of control, as defined in the Series A Convertible Preferred Stock. The Series A Convertible Preferred Stock does not have an expiration date and will remain outstanding and convertible at the option of the holder until converted or redeemed.
- (5)

Note: File three copies of this Form, one of which must be manually signed. If space is insufficient, *see* Instruction 6 for procedure.

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